EXHIBIT A

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

MERCY CATHOLIC MEDICAL CENTER,
MERCY PHILADELPHIA HOSPITAL DIVISION

Employer

and Case 04-RC-191143

DISTRICT 1199C, NATIONAL UNION OF
HOSPITAL AND HEALTH CARE
EMPLOYEES, AFSCME, AFL-CIO

Petitioner

REGIONAL DIRECTOR'S DECISION ON EXCEPTIONS TO THE HEARING OFFICER'S REPORT ON CHALLENDED BALLOTS

The Petitioner and the Employer (Mercy Catholic Medical Center, Mercy Philadelphia Hospital Division) disagreed on the inclusion of certain classifications in the stipulated unit which voted in an election in this case, and employees in those classifications voted subject to challenge. In addition, during the election the Petitioner, District 1199C, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO, and the Board challenged the eligibility of several additional employees. Because the challenged ballots ended up being sufficient to affect the outcome of the election, it became necessary to determine their eligibility. The stipulated unit is a unit of nonprofessional employees under the Board's healthcare rules, and the eligibility issues raised by this proceeding concern whether certain classifications should be deemed to be technical employees or business office clericals, which are not included in such a nonprofessional unit. For the reasons discussed below, in agreement with the Report of the Hearing Officer who took evidence on these issues, and contrary to the Employer's and Petitioner's Exceptions, I affirm the Hearing Officer's recommendations to sustain 30 of the challenged ballots as they are technical employees or business office clericals who should be excluded from the nonprofessional unit, and to open and count 39 ballots. However, I disagree with the Hearing Officer's decision to overrule the challenge to the ballot of Radiology Technologist Student Jennifer Myuers as I conclude that her classification is indeed a technical position based on her duties and educational background. I also disagree with the Hearing Officer's decision to sustain the challenges to the ballots of Staffing Specialists Mavis Duvall and Stacey Jordan as I find that their duties and functions place them within the nonprofessional unit, and I would overrule those challenges. Those 2 challenged ballots, together with the 39 challenges the Hearing Officer overruled, are sufficient in number to affect the outcome of the election. Accordingly, I order that 41 ballots be opened and counted and that a revised tally of ballots be issued.

PROCEDURAL HISTORY

The Petitioner filed a petition in Case 04-RC-191143 on January 11, 2017. Pursuant to a Stipulated Election Agreement approved by the Regional Director on January 23, 2017, an election by secret ballot was conducted on February 7, 2017 in the following unit:

> **Included**: All full-time, regular part-time and per diem non-professional employees employed by the Employer at its 501 South 54th Street, Philadelphia, Pennsylvania facility.
>
> **Excluded**: All other employees, including managerial employees, technical employees, professional employees, business office clerical employees, guards and supervisors as defined in the Act.
>
> **Others permitted to vote**: The parties have agreed that Clerk General, Clerk Radiology, Discharge Planning Assistant, EEG Technician, Endoscopy Technician, Health Information Liaison, Health Information Management Clerk, Nutrition Aide, Occupational Health Assistants, OR Technicians, Patient Access Registration Representative, Pharmacist Technician, Physical Therapy Aides, QR Data Specialist, Staffing Specialists, and Utilization Management Assistant may vote in the election but their ballots will be challenged since their eligibility has not been resolved. No decision has been made regarding whether the individuals in these classifications or groups are included in, or excluded from, the bargaining unit. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

The Tally of Ballots prepared at the conclusion of the election on February 7, 2017 showed that of approximately 347 eligible voters, 132 ballots were cast for and 97 ballots were cast against the Petitioner, with 72 challenged ballots determinative of the results of the election. No objections were filed.

On March 22 and 23, 2017, Hearing Officer David Rodriguez conducted a hearing in this matter. On April 23, 2017, he issued a Report recommending that the challenges to the ballots of Lenora Drummond, Tee Dubose, Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells, Sherri Woodley, Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene K. Smith, Sheena Stone, Mavis Duvall, Stacy A. Jordan, Emily Tilghman, and Elaine Creamer be sustained as he concluded that these employees are either technical employees or business office clericals (BOCs) who do not belong in the nonprofessional unit; that the challenges to the ballots of Tee Dubose and Blasé Canterbury be sustained because he concluded they did not meet the election eligibility requirements under *Davison-Paxon Co.*, 185 NLRB 21, 24 (1970); that the challenges to the ballots of Wanda Singletary, Cheryl Hines, Danyel Caliman-Allen, Mitsuko Powell, Pamela Johnson, Linda M. Bethea, Porsche Ray, Tracy Luong, Andrea Alston, Ann Aytch, Terri Robinson, Denise Colon, Chakana Conwell, David Dao, Diana Guzman, Hwee Jung Kim, Inae

Lee, Kun Rhee, Sunish Shah, Dorothy G. Dixon, Celestine Karnga, Marquelda Martinez, Jospehine T. Sebastian, Marys S. Thomas, Sherin Joseph, Erin Martin, Decis Gordon, jn Maxine Clahar, Jasmine Coleman, Lavatrice King, Catherine Harrity, Mary Johnston, Dorothy Nyame, and Jennifer Myuers[1] be overruled and counted as he concluded they are nonprofessional employees who belong in the unit; and that the challenged ballot of Louis Farrar Jr. be overruled and counted as he concluded that Louis Farrar Jr. is not a supervisor as defined in Section 2(11) of the Act; and that a revised tally of ballots be issued. The Report also noted that at the hearing the Petitioner withdrew its challenges to the ballots of Charmaine Boyer, Amanda Moon, Dennis Richardson, and Maxine Spivey and the parties stipulated that these employees belonged in the nonprofessional unit.

On May 2, 2017, the Hearing Officer issued an Erratum noting that his report had inadvertently omitted his recommendation to overrule the challenge to the ballot of Mary Jane McCormick as he found she belonged in the nonprofessional unit.

THE EXCEPTIONS

On May 11, 2017, the Employer and Petitioner timely filed Exceptions to the Hearing Officer's Report and Briefs in Support. Both the Petitioner and the Employer also timely filed Answering Briefs on May 18, 2017.

The Petitioner excepted to the Hearing Officer's findings that Discharge Planning Assistants Danyel Caliman-Allen, and Mitsuko Powell; Health Information Liaison, Tracy Luong; and Health Information Management Clerks, Andrea Alston, Ann Aytch, and Terri Robinson, were not BOCs. The Petitioner further excepted to the Hearing Officer's findings that Pharmacist Technicians, Dorothy Dixon, Celestine Karnga, Marquelda Martinez, Mary Thomas and Josephine Sebastian; Pharmacist Students, David Dao, Diana Guzman, Hwee Jung Kim, Inae Lee, Kun Rhee and Sunish Shah; and Radiology Tech Student, Jennifer Myuers were not technical employees.

The Employer excepted to the Hearing Officer's findings that Patient Access Registration Representatives, Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene Smith and Sheena Stone; Staffing Specialists, Mavis Duvall and Stacy Jordan; Utilization Management Assistant, Emily Tilghman; and QR Data Specialist, Decis Gordon, were BOCs. The Employer further excepted to the Hearing Officer's findings that OR Technicians, Lenora Drummond, Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells and Sherri Woodley, were technical employees.

There were no exceptions to the Hearing Officer's recommendations that the 18 challenged ballots of Clerk General, Wanda Singletary; Clerk Radiology, Cheryl Hines; EEG Technician, Pamela Johnson; EKG Technicians, Maxine Clahar, Jasmine Coleman, Lavatrice King, and Mary Jane McCormick; Endoscopy Technicians, Linda M. Bethea and Porsche Ray;

[1] This is the spelling of the name as stated in the Notice of Hearing on Challenged Ballots. As noted by the Hearing Officer, the Employer's documentary evidence suggests that the correct spelling of this name is Jennifer Myers.

Occupational Health Assistants, Denise Colon and Chakana Conwell; Physical Therapy Aides, Sherin Joseph and Erin Martin; Radiology Aides, Catherine Harrity, Mary Johnston, Amanda Moon and Dorothy Nyame; and Storeroom Lead, Louis Farrar Jr., be counted. In the absence of exceptions to these challenged ballots, and based on my review of the record and the applicable law, I agree with the Hearing Officer and adopt his findings and recommendations that these challenges be overruled, and therefore their ballots shall be opened and counted. There were also no exceptions to the Hearing Officer's recommendations that the challenges to the three ballots of Elaine Cramer, Tee Dubose and Blasé Canterbury be sustained. In the absence of exceptions to these challenged ballots, and based on my review of the record and the applicable law, I agree with the Hearing Officer and adopt his findings and recommendations that these challenges be sustained, and therefore their ballots shall not be opened and counted.

The Hearing Officer discharged his duty under Sec. 102.64(a) of the Board's Rules and Regulations to "inquire fully into all matters in issue and necessary to obtain a full and complete record" and to prepare a report containing findings of fact and recommendations on the issues as required under Sec. 102.69(c)(1)(iii). I find that the Hearing Officer has fully satisfied these requirements and that the Report contains no prejudicial errors. The relevant facts set forth in the Hearing Officer's Report are supported by the evidence obtained during the hearing and the Hearing Officer properly applied applicable Board case law. However, contrary to the Hearing Officer, I find that the Petitioner had the burden to establish the ineligibility of the disputed classifications here. It is doubtless true that if the Petitioner had opted not to enter into a stipulated election agreement, the Petitioner would not have borne the burden, as the burden would have fallen at the pre-election hearing on the Employer to demonstrate that any additional employees it sought to include shared "an overwhelming community of interest with the petitioned-for employees." *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934 (2011). However, in post-election procedures involving challenges to the ballots cast by voters, such as this one, the party seeking to exclude or disenfranchise an employee or employee classification has the burden of proof to sustain the challenge. *Sweetener Supply Corp.*, 349 NLRB 1122 (2007), citing *Golden Fan Inn*, 281 NLRB 226, 230 fn. 24 (1986). Thus, the Petitioner, as the party seeking to exclude employees from the nonprofessional unit, had the burden of establishing that the employees it sought to exclude were either technical employees or business office clericals. *Allen Healthcare Services*, 332 NLRB 1308 (2000) cited by the Hearing Officer, is inapposite, as the appropriateness of the unit here—a nonprofessional unit in an acute health care institution—is not in question. In any event, regardless of which party had the burden here, the record more than adequately establishes that sufficient evidence was provided to make a determination as to the exclusion or inclusion of the various employee categories at issue here.

As set forth below, I have decided to adopt most of the Hearing Officer's recommendations and to dismiss the Petitioner's and Employer's Exceptions, except with regard to the Radiology Tech Students and the Staffing Specialists. Thus, in agreement with the Hearing Officer, I find that (1) OR Technicians are technical employees and are properly excluded from the nonprofessional unit; (2) Pharmacist Technicians and Pharmacist Students, are not technical employees and are properly included in the nonprofessional unit; (3) Patient Access Registration Representatives, Utilization Management Assistant, and the QR Data Specialist are BOCs and are properly excluded from the nonprofessional unit; and (5) Discharge Planning Assistants, the Health Information Liaison, Health Information Management Clerks, are not

BOCs and are properly included in the nonprofessional unit. In disagreement with the Hearing Officer, I find that (1) Radiology Tech Students are technical employees and are properly excluded from the nonprofessional unit; and (2) Staffing Specialists are not BOCs and are properly included in the nonprofessional unit.

DISCUSSION

1. Applicable Legal Principles

1. Nonprofessional Employees

The Board has consistently found that a unit of nonprofessional employees will generally include all service and maintenance employees. See 53 FR at 33926-33927; 284 NLRB at 1565-1566. This unit is analogous to plant-wide production and maintenance units in the industrial sector and, as such, is the classic appropriate unit. *Newington Children's Hospital,* 217 NLRB 793 (1975). Employees in this category generally perform manual and routine job functions, and are not highly skilled or trained. Historically, nonprofessional units have included hospital clericals while excluding business office clericals, as prescribed by the Board's Healthcare Rule. See *Mercy Hospitals of Sacramento, Inc.*, 217 NLRB 765, 770 (1975).

2. Background Facts

The Employer, a division of Mercy Catholic Medical Center, operates a 157-bed acute care hospital (the Hospital) located at 501 South 54th Street, Philadelphia, Pennsylvania. The Employer occupies one large building made up of a central structure connected to six wings via hallways. The building consists of eight floors, but all the disputed classifications in this case are spread throughout the first seven floors of the building. The Hospital provides many medical services, including emergency care, oncology, psychiatric care, radiology, and physical therapy.

The Employer uses a pay grade system to assign wage ranges to each job classification. There are two types of pay grade scales relevant to this case—the Foundation Pay Scale and the General House Pay Scale. The Foundation Pay Scale ranges from F01 to F20, where F01 contains the lowest pay ranges and F20 contains the highest pay ranges. This pay scale targets wages to the 50th percentile of market wages. The General House Pay Scale ranges from G01 to G23, where G01 contains the lowest pay ranges and G23 contains the highest pay ranges. This pay scale targets wages to the 60th percentile of market wages.

3. Technical Employees

a. Applicable Legal Principles

In its Second Notice of Proposed Rulemaking, the Board explained that technical jobs in the healthcare field involve the use of independent judgment and specialized training, and can be found in major occupational groups such as medical laboratory, respiratory therapy, radiography, emergency medicine and medical records. 53 FR at 33918, 284 NLRB at 1553; see also *Specialty Hosp. of Washington-Hadley, LLC*, 357 NLRB 814 (2011); *New Orleans Public Service, Inc.*, 215 NLRB 834, 836 (1974). Healthcare technical jobs require significant education or training beyond high school, which can be obtained by completing an associate's

degree from a community college, a vocational training program run by a hospital, a course of studies at an accredited technology school, and in some fields, by completing a 4-year college degree. 53 FR at 33918; 284 NLRB at 1554. Although the laws on licensing, training, registration, and qualifications vary across the country, most technical employees are certified (usually by a national examination), licensed, or registered with state authorities. Id.; see also *Rhode Island Hospital*, 313 NLRB 343, 353 (1993); *Barnert Memorial Hospital*, 217 NLRB 775, 776 (1975). Technical employees generally earn more than other nonprofessionals in the healthcare industry. 53 FR at 33918-19, 284 NLRB at 1554.

As defined by the Board, "[t]echnical employees . . . are distinguished by the support role they play within the hospital, and by the fact that they work in patient care." 53 FR at 33918; 284 NLRB at 1554. With the exception of licensed practical nurses (LPNs), technical employees do not work in patient care areas. 53 FR at 33919; 284 NLRB at 1554-55. Instead, they typically work in laboratories or in technical departments, performing tasks such as processing and reviewing patient specimens, performing routine clinical tests, administering blood gas studies, providing general respiratory care, taking x-rays, performing ultrasound procedures, computerized tomography (CT) scans, electrocardiograms (EKG), and electroencephalographs (EEG), all of which are considered ancillary services and diagnostic in nature. Id. They typically work regular daytime hours, with skeleton crews in the evenings, at night, and on weekends. 53 FR at 33919; 284 NLRB at 1554. Due to differences in their respective skill sets, functions, and educational backgrounds, there is no temporary interchange and little permanent interchange between technical employees and other nonprofessionals. 53 FR at 33919; 284 NLRB at 1555.

b. OR Technician: Lenora Drummond, Tee Dubose,[2] Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells, and Sherri Woodley

The Employer in its Exceptions contends that the classification of OR Technician must be included in the nonprofessional unit because they do not use independent judgment. Consistent with the foregoing principles, the Hearing Officer held that they are technical employees by virtue of their educational requirements, training, and highly technical skills. I agree. The Board has consistently held that OR technicians belong in technical units. *Rhode Island Hospital, supra,* at 353-354; *Barnert Memorial Hospital Center*, supra at 780; *Trinity Memorial Hospital of Cudahy*, 219 NLRB 215, 216 (1975); *William W. Backus Hospital*, 220 NLRB 414, 418 (1975). See also *Meriter Hospital*, 306 NLRB 598, 600-601 (1992) (Board found that OR technicians belonged in a technical unit even though they were not required to be certified because of the highly technical tasks they performed). While Director of Nursing Linda Fleming, who supervised this classification from 2007 to 2014, testified that the OR Technician job does not require the use of independent judgment, she also testified that the job is "extremely complex" as OR Technicians are responsible for selecting and preparing the instruments to be used during operative procedures. OR Technicians rely on their education, a six-month to two-year surgical perioperative program from an accredited institution, and understanding of surgical procedures in order to know what instruments are required for each particular type of procedure out of the thousands of instruments to choose from. ORTs know that abdominal procedures, for example, require a certain set of instruments that are not used in other procedures. While OR Technicians use surgeon preference cards which indicate each surgeon's particular instrument

[2] There were no exceptions to excluding Tee Dubose based on her failure to meet the election eligibility formula.

preferences, Fleming also testified that OR Technicians use their knowledge and education to know what particular instrument a surgeon needs. In addition, OR Technicians are paid at the F07 pay grade—a significantly higher pay grade than the other alleged technical classifications at issue in these proceedings. Based on the above, the Hearing Officer properly found OR Technicians Lenora Drummond, Tee Dubose, Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells, and Sherri Woodley should not be included in the nonprofessional unit because they are technical employees.

c. *Pharmacy Technician and Pharmacy Student: David Dao, Dorothy G. Dixon, Diana Guzman, Celestine Karnga, Hwee Jung Kim, Inae Lee, Marquelda Martinez, Kun Rhee, Jospehine T. Sebastian, Sunish Shah and Marys S. Thomas*

Petitioner in its Exceptions contends that the classifications of Pharmacy Technician and Pharmacy Student are technical classifications, which should be excluded from the unit based on the educational requirements that they have. The Petitioner alternately excepts to the Hearing Officer's placement of the Pharmacist Students on the basis that they are students who only work at the Employer while in school and are paid less. The Hearing Officer held that Pharmacy Technician and Pharmacy Student are not technical employees as they do not make any judgments regarding how much or which medications should be stocked or refilled but instead follow specific hospital directives and protocols that are required. He recommended that they be included in the nonprofessional unit. I agree.

The Board has generally placed pharmacy technicians in the nonprofessional unit. *Rhode Island Hospital,* supra at 356; *Southern Maryland Hospital,* 274 NLRB 1470, 1474 (1975); *Medical Arts Hospital of Houston*, 221 NLRB 1017, 1018 (1975); *Meriter Hospital*, supra at 601. Cf. *Duke University*, 226 NLRB 470 (1976) (found to be technical employees where employer required that applicants had completed a 6 month course of study with a certificate of completion before being hired.) Here, the five pharmacy technicians and six pharmacy students in the Pharmacy Department perform routine duties under strict parameters and directives and under the direct supervision of the pharmacist. Based on the record evidence, the Hearing Officer correctly found that the pharmacy technicians, in performing their tasks, do not use independent judgment. While Petitioner in its Exceptions points to the requirement that pharmacy technicians obtain a Pharmacy Technician Certification within six months of their start date, the record establishes that employees may take and pass the certification exam without attending any formal course of study and that employees with at least five years of prior experience as pharmacy technicians are not required to become certified. Moreover, all of their work is reviewed by a pharmacist.

Petitioner also contends in its Exceptions that the pharmacy students, who are enrolled in pharmacy school, should be excluded from the unit as they lack a community of interest with other employees, are paid lower wages than the pharmacy technicians, work different hours and receive no fringe benefits. The record shows that the Employer hires pharmacy students, who get credit-hours toward their degree, if they are enrolled in the last four years of pharmacy school. Thus, pharmacy students, who generally stay until they graduate, may work up to four years at the Hospital. Pharmacy students, unlike the pharmacy technicians, work one eight-hour shift every weekend and are employed at the F04 pay grade, earning $15.60 per hour, as compared to full-time pharmacy technicians, who are employed at the F05 pay grade, earning $16.48 to $21.26 per hour. However, their pay is comparable to other classifications within the unit. While

pharmacy students do not get fringe benefits, it is not based on their student status but rather on the fact that they are not full-time employees like the pharmacy technicians. As noted above, they perform the same work as the pharmacy technicians. *Rhode Island Hospital,* supra at 366 (Board included pharmacy students in the nonprofessional unit noting that they were treated more like employees than students).

Based on the above, the Hearing Officer properly found that Pharmacy Technicians and Pharmacy Technician Students David Dao, Dorothy G. Dixon, Diana Guzman, Celestine Karnga, Hwee Jung Kim, Inae Lee, Marquelda Martinez, Kun Rhee, Jospehine T. Sebastian, Sunish Shah and Marys S. Thomas must be included in the unit and their ballots be opened and counted.

d. Radiology Technologist Student: Blasé Canterbury[3] *and Jennifer Myuers*[4]

The Petitioner in its Exceptions contends that the classification of Radiology Technologist Student (RTS) is a technical classification, which should be excluded from the nonprofessional unit, and alternatively, that the RTSs should be excluded as students who do not share a community of interest with other unit employees. Contrary to the Hearing Officer, I find that the RTSs perform technical work and I will exclude them from the unit.

The Board has consistently found that radiology technologists are technical employees. *Barnert Memorial Hospital Center,* supra at 778; *Mad River Community Hospital*, 219 NLRB 25 (1975); *Trinity Memorial Hospital of Cudahy*, supra at 217; *Clarion Osteopathic Hospital*, 219 NLRB 248, 249 (1975); *Alexian Brothers Hospital*, 219 NLRB 1122 (1975); *St. Elizabeth's Hospital of Boston*, supra at 328; *William W. Backus Hospital*, supra at 416; *Pontiac Osteopathic Hospital*, supra at 1707. In *Rhode Island Hospital.,* supra at 365-66, the Board excluded radiology students from a unit of nonprofessional employees.

While the Hearing Officer correctly concluded that Petitioner, which challenged this classification during the election, bore the burden of proof to establish that RTSs are technical employees, contrary to the Hearing Officer, I find that Petitioner met that burden. The record supports the conclusion that the RTSs are technical employees, and should not be included in the unit merely because of their trainee status. The RTSs perform all the duties of radiology technologists, who are excluded from the nonprofessional unit as technical employees, under the "indirect" supervision of the radiology technologists. Thus, like radiology technicians, who are admittedly technical employees, RTSs perform radiology exams, x-rays, and emit radiation to patients. They also monitor patients to ensure their safety, shield them from unnecessary radiation exposure, and receive relevant patient medical histories. While the Hearing Officer excluded the RTSs on the basis that they are not certified and are among the lowest paid employees at issue in this case, RTSs are hired after completing the first year of a two-year radiology technologist program. The RTSs are essentially receiving on-the-job training under the guidance of skilled employees as they further develop their technical skills. See *Beecher Ancillary Services, Inc.*, 225 NLRB 642 (1976) (Board included technologist student-trainees in

[3]There were no exceptions to excluding Blasé Canterbury based on her failure to meet the election eligibility formula.

[4] The Employer's documentary evidence suggests that the correct spelling of this name is Jennifer Myers. Nevertheless, like the Hearing Officer, I have maintained the spelling used in the Notice of Hearing on Challenged Ballots.

a unit of technical employees, finding that they were akin to apprentices). See also *St. Luke's Episcopal Hospital,* 222 NLRB 674, 676 (1976) (radiology technologists I who did not have certification excluded from nonprofessional unit along with radiology technologists II and senior radiologists who were certified because they performed the same job duties). Cf. *Trinity Memorial Hospital of Cudahy,* supra at 217 (radiology students were excluded from technical unit because they performed nontechnical work that radiology escorts performed). Because RTSs perform technical work, I do not affirm the Hearing Officer's recommendation to overrule the challenges to their ballots. Accordingly, I sustain the challenge to the ballot of RTS Jennifer Myuers and conclude that her ballot not be opened and counted.

4. Business Office Clericals v. Hospital Clericals

a. Applicable Legal Principles

Although hospitals employ many individuals whose jobs are primarily clerical, "rooted in community of interest considerations, including the performance of different functions for different purposes in separate work areas under separate supervision," over 40 years ago, in *Mercy Hospitals of Sacramento, Inc.,* supra at 770, the Board decided that "in the health care field, as in the industrial sphere," all clerical employees should not be included in the same unit. Rather, the Board held:

> We shall continue to recognize a distinction between business office clerical employees, who perform mainly business-type functions, and other types of clerical employees whose work is more closely related to the function performed by personnel in the service and maintenance unit and who have, in the past, been traditionally excluded by the Board from bargaining units of business office clerical employees. Thus, the Board has consistently recognized that the interests of business office clerical employees differ markedly from the interest of clerical employees who work in the production areas and has declined to establish bargaining units composed of the two groups.

Thus, in *St. Luke's Episcopal Hospital,* supra at 676, the Board established the following guidelines in hospital cases for determining whether clericals are business office clericals (BOCs):

> Business office clericals are those clerical employees who, because they perform business office functions, have minimal contact with unit employees or patients, work in geographic areas of the hospital, or perform functions, separate and apart from service and maintenance employees, and thus do not share a community of interest with the service and maintenance unit employees.

BOCs generally work in the administration, planning and development, public relations, personnel, accounting, management engineering, internal audit, pastoral care and education, communications, medical education, community affairs, credit union and purchasing departments. BOCs also work in a hospital's "admitting, data processing, payroll, and business office departments." *Trumbull Memorial Hospital,* 218 NLRB 796 (1975).

The clerical work of BOCs is generally limited to finance, billing, and insurance, and is not directly involved in patient care or with physical or environmental health. *Lifeline Mobile Medics, Inc.,* 308 NLRB 1068 (1992). In this regard, BOCs work in data entry and data processing, even though the data they handle originates throughout the hospital. *Rhode Island Hospital,* supra at 361.

Receptionists and admitting clerks are also generally included in a BOC unit. *St. Elizabeth's Hospital of Boston,* 220 NLRB 325 (1975). BOCs deal with Medicare, Medicaid, and other reimbursement systems. *Lincoln Park Nursing Home,* 318 NLRB 1160, 1164 (1995).

By contrast, hospital clericals work throughout the hospital, alongside, and with similar objectives as, patient-care employees. *St. Francis Hospital,* 219 NLRB 963, 964 (1975). They generally have continual contact with patients and other service and maintenance employees, are physically separated from business office employees, work primarily with patients and patients' records rather than the materials with which BOCs work, and are not supervised by the people who supervise BOCs. *William W. Backus Hospital,* supra at 415.

Employees may be considered hospital clericals even if their work is not directly involved in patient care. Clerical employees whose work is not directly connected and related to patient care, but who come in frequent contact with unit employees in the nonprofessional unit, and do not perform tasks related to the business offices, are viewed as sharing a sufficient community of interest with nonprofessional employees to be considered hospital clericals, and are included in their unit. *Baptist Memorial Hospital,* 225 NLRB 1165, 1167-1168 (1975); *St. Luke's Episcopal Hospital, supra,* at 677. Similarly, medical records employees are often considered hospital clericals, not BOCs, because they work largely with patients' medical records, are located in areas near other nonprofessional unit employees, have frequent contact with employees who deal directly with patients, and little contact with admitted BOCs. *Rhode Island Hospital,* supra at 362-363.

b. Discharge Planning Assistant: Danyel Caliman-Allen and Mitsuko Powell

The Petitioner in its Exceptions contends that the classification of Discharge Planning Assistant (DPA) should be excluded from the nonprofessional unit because this is a BOC classification. Consistent with the foregoing principles, the Hearing Officer held that they are not BOCs because they spend the majority of their time in patient care areas, surrounded by unit employees who provide patient care, are not required to hold any specialized education, and have the same pay grade as Emergency Room Technicians. I agree. Unlike BOCs, the two DPAs are not geographically isolated, and do not handle finances, billing, or similar duties. *Lincoln Park Nursing Home,* supra at 1165. The DPAs spend most of their time working and communicating with patients, nurses and social workers in order to ensure post discharge patient care. DPAs arrange for transportation for patients being discharged from the Hospital; arrange for post-discharge care; order "durable medical equipment," that patients need post-discharge; explain to patients the federal regulatory requirement of the Important Medicare Message; secure the patient's signature confirming receipt of the information; and document this information in the patients' medical records. *Baptist Memorial Hospital,* supra at 1168 (liaison office secretary responsible for the patient and family making arrangements for post hospital care included in nonprofessional unit). Based on the above, the Hearing Officer properly found that DPAs Danyel Caliman-Allen and Mitsuko Powell must be included in the unit and their ballots be opened and counted.

c. Utilization Management Assistant: Emily Tilghman

The Employer in its Exceptions contends that the classification of Utilization Management Assistant was misclassified as a BOC and should be included in the nonprofessional unit. The Hearing Officer concluded that the Utilization Management Assistant position is a BOC, because this classification is dedicated almost exclusively to dealing with

insurance and insurance-related matters. I agree. The clerical work of BOCs is generally limited to finance, billing, and insurance, and is not directly involved in patient care or with physical or environmental health. *Lifeline Mobile Medics, Inc.*, 308 NLRB 1068 (1992). The Utilization Management Assistant serves as a liaison between insurance companies' physician advisors and the Employer's physician advisor. Her job is to convey to the insurers' physician advisors the Employer's position as to why it should be paid for the performance of medical procedures and services. She also runs reports on Medicare inpatient hospital stays to insure that all documentation has been completed in the event the files are audited. In *Baptist Memorial Hosp.*, supra at 1170, the Board found that a utilization review coordinator functioned "essentially as a hospital clerical" and included that position in the nonprofessional unit. However, in that case, the utilization review coordinator merely abstracted information that the utilization review RNs compiled and did not perform the same work as the Utilization Management Assistant here. Although the Utilization Management Assistant performs DPA duties on a bimonthly basis, she is physically separated from them and works in an office with other non-unit employees who perform insurance-related functions. Based on the above, the Hearing Officer properly found that the classification of Utilization Management Assistant should not be included in the nonprofessional unit because it is a BOC position. Accordingly, I sustain the challenge to the ballot of Emily Tilghman and conclude that her ballot not be opened and counted.

d. Health Information Management Liaison: Tracy Luong

The Petitioner contends in its Exceptions that the Health Information Liaison is a BOC classification, because this position spends the majority of time in an isolated office on the computer processing paperwork. The Hearing Officer excluded this position, concluding that it was essentially a medical record clerical employee whose duties are unrelated to patient billing or other functions traditionally associated with BOCs. I agree.

Even when located in a department isolated from patient care areas, medical records clerks have generally been deemed hospital clericals rather than business office clericals, especially when they have contact with employees who deal directly with patients. *Rhode Island Hospital,* supra at 362-363; *William W. Backus Hospital,* supra at 415; *Baptist Memorial Hospital*, supra at 1168; *Sisters of St. Joseph of Peace*, 217 NLRB 797, 798 (1975). The duties of the Health Information Liaison position, which does not require any specialized education or training, are essentially limited to ensuring the completeness of electronic medical records and to identifying physicians who fail to complete their medical records. The Health Information Liaison is also responsible for ensuring that organ donation forms are signed and completed, that physicians sign death certificates, and that death certificates are sent to funeral homes. While the Health Information Liaison performs these tasks on a computer in the Health Information Management (HIM) Department, she has frequent contact with physicians, residents, medical students, and nurses. The health information liaison also has regular temporary interchange with the health information management clerks. Petitioner is correct that medical records clerks have been excluded from nonprofessional units when they are confined to an isolated geographic location and have limited contact with other employees. *St. Luke's Episcopal Hospital,* supra at 677. However, in that case, the medical records employees were located in a separate building. Here, the record supports the Hearing Officer's finding that HIM employees have daily contact with employees who provide patient care. *St. Catherine's Hospital of Dominican Sisters of Kenosha, Wisconsin, Inc.*, 217 NLRB 787, 789 n. 20 (1975). Moreover, unlike *Seton Medical*

Center, 221 NLRB 120, 122, n. 21 (1975), relied on by Petitioner, where the Board found that medical records clerks belonged in a BOC unit, there is no evidence that HIM employees work with other BOC classifications. Based on the above, the Hearing Officer properly found that the classification of Health Information Liaison should be included in the nonprofessional unit. Accordingly, I conclude that Health Information Liaison Tracy Luong must be included in the unit and that her ballot be opened and counted.

5. *Health Information Management Clerk: Andrea Alston, Ann Aytch, and Terri Robinson*

The Petitioner contends in its Exceptions that the classification of Health Information Management (HIM) Clerk is a BOC classification, because this position is essentially a medical record clerical position that is geographically isolated and has little interaction with employees in the non-professional unit. The Hearing Officer found, for the same reasons set forth for the Health Information Liaison classification, that HIM clerks are nonprofessional employees. I agree.

The three HIM clerks work with the Health Information Liaison. While they also review medical records for completeness, they do not directly contact the physicians if information is missing from the record. Instead they notify the physician by making notes on the electronic medical record. They also visit the various floors of the Hospital daily to collect medical records and bring them back to HIM, and thereafter they process the records. See *Rhode Island Hospital*, supra at 362-363. Based on the above, the Hearing Officer properly found that the classification of HIM Clerk should be included in the nonprofessional unit. Accordingly, I conclude that HIM Clerks Andrea Alston, Anne Aytch, and Terri Robinson must be included in the unit and that their ballots be opened and counted.

6. *Patient Access Registration Representative: Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene K. Smith, and Sheena Stone*

The Employer contends in its Exceptions that the Hearing Officer improperly classified Patient Access Registration Representatives (PARRs) as BOCs because he ignored their interaction with patients, preparation of patients' medical records, and communications with medical care personnel. The Hearing Officer excluded this position as BOCs finding that PARRs are essentially admission clerks who also have significant insurance and billing related tasks. I agree.

Admitting clerks are generally included in a BOC unit because they "are responsible for acquiring information (e.g., financial status, insurance coverage, etc.) required for billing purposes." *Baptist Memorial Hospital*, supra at 1168. See also *St. Elizabeth's Hospital of Boston*, supra at 325; *St. Catherine's Hospital of Dominican Sisters of Kenosha, Wisconsin, Inc.*, supra at 789. Cf. *William W. Backus Hospital*, supra at 416 (Board found admitting clerks not BOCs because the admitting clerks escorted patients to nursing units or the laboratory, had substantial contact with unit employees, and "work[ed] primarily with patients' records rather than the

materials with which business office employees deal"); *Jewish Hospital of Cincinnati*, 223 NLRB 614, 621 (1976)(Board found admitting clerks not BOCs because the admitting clerks escorted patients to their rooms, had extensive contact with nonprofessional employees, and played no role related to patients' financial or insurance arrangements).

The 21 PARRs, stationed in three discrete work stations throughout the Hospital, register patients upon their arrival to the hospital, which includes verifying each patient's insurance information and billing information. One of the PARR work stations is located in the Emergency Department on the ground floor of the Hospital, and has glass partitions. The other two PARR work stations, where 9 of the PARRs work, are located on the ground and first floors of the Hospital, away from patient care areas. PARRs have no common supervision and no interchange with other classifications in the nonprofessional unit. PARRs are evaluated on their significant insurance and billing related duties as well as factors related to customer service. Thus, they perform many of the same tasks traditionally associated with the business office of hospitals. *Baptist Memorial Hospital*, supra. In *Rhode Island Hospital,* supra at 361-362, the Board found emergency room registration and outpatient registration employees who took demographic and financial information while admitting patients, to be hospital clericals rather than BOCs. The Board, in making that determination relied on *William W. Backus Hospital*, supra, and *Jewish Hospital of Cincinnati*, supra, which are clearly distinguishable from the instant case. Moreover, the patient accounts representatives in *Rhode Island Hospital* were less involved with insurance and billing than the PARRs here as they only contacted insurance companies if preauthorization was needed, whereas here PARRs are required to verify and obtain insurance coverage for each patient. Also unlike that case, the PARRs are not assigned on a weekly rotating basis to different clinics. The PARRs in the Emergency Department work behind a glass partition and those in the other two locations are not in patient areas. In these circumstances, the Hearing Officer properly found that the PARRs should not be included in the nonprofessional unit because they are BOCs.

Accordingly, I conclude that PARRs Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene K. Smith, and Sheena Stone must be excluded from the unit and their ballots not be opened and counted.

7. Quality Review Data Specialist: Decis Gordon

The Employer contends in its Exceptions that the Hearing Officer incorrectly concluded that the classification of Quality Review (QR) Data Specialist is a BOC classification because she is essentially a specialized medical records clerk, which should be included in the unit along with the other medical record clerks. The Hearing Officer excluded this position as a BOC, finding that the QR Data Specialist did not share a sufficient community of interest with employees in the nonprofessional unit because of her isolation and lack of contact with patient care employees. I agree.

In limited circumstances, the Board has found employees who work with medical records to be BOCs when they are geographically isolated and work with other BOC classifications. See *Seton Medical Center*, supra at 122 n. 21; *St. Luke's Episcopal Hospital*, supra at 677 (excluding medical records clerks from service and maintenance unit). The Employer's only QR data

specialist works in the Quality Management Department (QMD) on the third floor of the Hospital along with three quality review nurses. The QR data specialist's primary job function is to review medical records against pre-determined quality metrics set by the Centers for Medicare and Medicaid and to make sure that the medical record contains the information required by the quality metrics. The QR data specialist's contact with personnel outside QMD is extremely limited. Approximately two to three times a month, she will contact nurses or nurse managers and ask them to update missing information in the medical record. Although the Employer asserts that the position only requires a high school diploma, the QR Data Specialist job description and performance evaluation states that employees in this position are required to have an Associate Degree in Management Information Technology or 3 years of equivalent experience. Unlike any other employee in the disputed classifications, the QR Data Specialist is paid on the General House Pay Scale and earns a significantly higher pay grade and pay rate. Thus, the Hearing Officer properly found that the classification of QR Data Specialist should not be included in the nonprofessional unit because it is a BOC classification. I agree, and I conclude that QR Data Specialist Decis Gordon must be excluded from the unit and her ballot not be opened and counted.

8. Staffing Specialist: Mavis Duvall and Stacy A. Jordan

The Employer contends in its Exceptions that the Hearing Officer improperly decided that the classification of Staffing Specialist is a BOC classification because he focused solely on their payroll functions instead of their overall job functions, their regular interaction and common supervision with other nonprofessional employees, and direct interaction with patients. The Hearing Officer excluded this position, finding that the functions and skills of Staffing Specialists are more closely related to those of BOCs. I disagree.

In *Lincoln Park Nursing Home,* supra at 1163-1164, the Board found that a nursing department payroll clerk who also scheduled employees was not a BOC because she did not handle finances and billing, or deal with Medicare, Medicaid, and other reimbursement systems. Cf. *Medical Arts Hospital of Houston*, 221 NLRB 1017, 1018 (1975) (Board found a nursing office secretary responsible for arranging duty time for employees, among other many duties including purchases, was a BOC, despite placement in the nursing department); *Southwest Community Hospital*, 219 NLRB 351, 353 (1975) (nursing services employee who scheduled employees, worked adjacent to business office and whose contact with unit employees was primarily by phone excluded from nonprofessional unit as BOC). Although the Hearing Officer noted that the Board has historically excluded payroll clerks as BOCs, citing *St. Luke's Episcopal Hospital*, supra at 676 (1976), in that case the payroll clerks were part of the Accounting department, and clearly BOCs. In *Trumbull Memorial Hospital*, supra at 797, also cited by the Hearing Officer, the Board merely identified the position as a BOC without any explanation. Thus, these cases are inapposite.

Staffing specialists coordinate per-diem and staffing schedules, review staffing levels and make adjustments to the schedule on a daily basis. Staffing specialists also assist with payroll by making sure that the hours entered into the computer are properly coded. They do not handle finances or billing, or deal with Medicare, Medicaid, and other reimbursement systems. *Lincoln Park Nursing Home,* supra. In accomplishing their duties, they have frequent contact with unit facilitators, patient care assistants, and transporters, classifications which are admittedly part of

the nonprofessional unit. Two of the staffing specialists are former unit facilitators. One staffing specialist currently spends half her time performing unit facilitator work. Staffing specialists, like other nonprofessional employees, are also cross trained to do one-on-one coverage to monitor patients who are considered to be at risk for suicide or for falls. They perform this task about five times a year. Staffing specialists do not have contact with BOCs, nor do they work with other BOC classifications. Unlike *Medical Arts Hospital of Houston,* supra, and *Southwest Community Hospital,* supra, the staffing specialists come in frequent contact with unit employees, perform some patient care, and share common supervision with nonprofessional employees. *William W. Backus Hospital,* supra at 415. Thus, I find that Staffing Specialists are not BOCs. Because staffing specialists are hospital clerical positions, I do not affirm the Hearing Officer's recommendation to sustain the challenges to their ballots. Accordingly, I conclude that Staffing Specialists Mavis Duvall and Stacy A. Jordan must be included in the unit and that their ballots be opened and counted.

CONCLUSION

Based on the foregoing, I sustain the challenges to the ballots of the following employees: Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Blasé Canterbury, Elaine Creamer, Lenora Drummond, Tee Dubose, Lisa Dungee, Tracy Ellerbe, Yvette English, Siedah Harris, Bashirah Hedgepeth, Pamelia Isham, Iesha King, Kafiah Mallory, Crystina McDonald, Jennifer Myuers, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene K. Smith, Sheena Stone, Emily Tilghman, Thomas Wells, and Sherri Woodley.

In addition, I overrule the challenges to the ballots of the following employees: Andrea Alston, Ann Aytch, Linda M. Bethea, Charmaine Boyer, Danyel Caliman-Allen, Maxine Clahar, Jasmine Coleman, Denise Colon, Chakana Conwell, David Dao, Dorothy G. Dixon, Mavis Duvall, Louis Farrar Jr., Decis Gordon, Diana Guzman, Catherine Harrity, Cheryl Hines, Pamela Johnson, Mary Johnston, Stacy A. Jordan, Sherin Joseph, Celestine Karnga, Hwee Jung Kim, Lavatrice King, Inae Lee, Tracy Luong, Erin Martin, Marquelda Martinez, Mary Jane McCormick, Amanda Moon, Dorothy Nyame, Mitsuko Powell, Porsche Ray, Kun Rhee, Dennis Richardson, Terri Robinson, Jospehine T. Sebastian, Sunish Shah, Wanda Singletary, Maxine Spivey, and Marys S. Thomas.

Because the challenges I have overruled are sufficient in number to affect the outcome of the election, I order that the 41 ballots cast by the employees named above be opened and counted and that a revised tally of ballots be issued.

APPEAL PROCEDURE

Pursuant to the provisions of Section 102.69 (c) (2) of the Board's Rules and Regulations, any party may file with the Board in Washington, D.C., a request for review of this decision. The request for review must conform with the requirements of Sections 102.67 (e) and (i)(I) of the Board's Rules and must be received by the Board in Washington by June 26, 2017. If no request for review is filed, the decision will be final and shall have the same effect as if issued by the Board.

A request for review may be E-filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street, SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the undersigned. A certification of service must be filed with the Board together with the request for review.

Dated at Philadelphia, Pennsylvania this 12th day of June, 2017.

DENNIS P. WALSH
Regional Director
National Labor Relations Board
615 Chestnut Street, Suite 710
Philadelphia, PA 19106

EXHIBIT B

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION

MERCY CATHOLIC MEDICAL CENTER,
MERCY PHILADELPHIA HOSPITAL DIVISION

Employer

and Case 04-RC-191143

DISTRICT 1199C, NATIONAL UNION OF
HOSPITAL AND HEALTH CARE
EMPLOYEES, AFSCME, AFL-CIO

Petitioner

HEARING OFFICER'S REPORT ON CHALLENGED BALLOTS

This case involves unit scope issues related to an agreed-upon unit of nonprofessional employees at an acute care hospital. The Employer, Mercy Catholic Medical Center, Mercy Philadelphia Hospital Division, contends that the unit must include several classifications of additional employees who work at the hospital. Petitioner, District 1199C, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO, seeks to exclude these classifications from the unit on the basis that they are technical employees or business office clericals as defined in the Board's Healthcare Rule, or supervisors as defined in the Act.

On February 7, 2017, agents of Region 4 of the National Labor Relations Board conducted an election among certain employees of Mercy Catholic Medical Center, Mercy Philadelphia Hospital Division (herein called the Employer or the Hospital).

Pursuant to the Stipulated Election Agreement between the Employer and District 1199C, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO (herein called Petitioner), the parties agreed that employees employed in several job classifications would vote subject to the Board's challenged ballot procedure and that their eligibility would be determined at a later date, if necessary. In addition, during the election Petitioner and the Board challenged the eligibility of several additional employees. The Tally of Ballots revealed that the challenged ballots are sufficient to affect the results of the election.

Overall, the Petitioner argues that with one exception all of the challenged voters are ineligible to vote and should be excluded because technical employees, business office clericals, supervisors, or did not work sufficient hours to meet the eligibility formula set forth in the Stipulated Election Agreement. The Petitioner would include only the challenged ballot of Elaine Creamer, as it asserts she is an emergency room technician properly included in the nonprofessional unit. The Employer seeks to open and count all of the challenged ballots as

included in the unit, with the exception of Elaine Creamer, who it argues is a paramedic ineligible to vote.

In this Report, I first list the name and job classification of each of the challenged ballots, followed by the specific reason of alleged ineligibility. I then set forth the applicable burdens of proof and provide an overview of the Board's Healthcare Rule, along with a general discussion of Board findings with respect to which employees are traditionally found to be nonprofessional employees, technical employees, and business office clericals. I will then address the specific challenged ballots and job classifications at issue in this case.

Each determinative challenged ballot, the party challenging eligibility and the asserted reasons for the challenge are as follows:

Ballots Challenged by the Board Agents pursuant to the Stipulated Election Agreement

Name	Classification	Petitioner Basis for Ineligibility
Wanda Singletary	Clerk General	Business Office Clerical
Cheryl Hines	Clerk Radiology	Business Office Clerical
Danyel Caliman-Allen	Discharge Planning Assistant	Business Office Clerical
Mitsuko Powell	Discharge Planning Assistant	Business Office Clerical
Pamela Johnson	EEG Technician	Technical Employee
Linda M. Bethea	Endoscopy Technician	Technical Employee
Porsche Ray	Endoscopy Technician	Technical Employee
Tracy Luong	Health Information Liaison	Business Office Clerical
Andrea Alston	Health Information Management Clerk	Business Office Clerical
Ann Aytch	Health Information Management Clerk	Business Office Clerical
Terri Robinson	Health Information Management Clerk	Business Office Clerical
Dennis Richardson	Nutrition Aide	Technical Employee
Maxine M. Spivey	Nutrition Aide	Technical Employee
Denise Colon	Occupational Health Assistant	Technical Employee
Chakana Conwell	Occupational Health Assistant	Technical Employee
Lenora Drummond	OR Technician	Technical Employee
Tee Dubose	OR Technician	Technical Employee and Inufficient Hours
Tracy Ellerbe	OR Technician	Technical Employee
Pamelia Isham	OR Technician	Technical Employee
Crystina McDonald	OR Technician	Technical Employee
Thomas Wells	OR Technician	Technical Employee
Sherri Woodley	OR Technician	Technical Employee
Nicole Baldwin	Patient Access Registration Representative	Business Office Clerical

Dana Berry	Patient Access Registration Representative	Business Office Clerical
Vena Brown	Patient Access Registration Representative	Business Office Clerical
Bernadette Camp	Patient Access Registration Representative	Business Office Clerical
Lisa Dungee	Patient Access Registration Representative	Business Office Clerical
Yvette English	Patient Access Registration Representative	Business Office Clerical
Siedah Harris	Patient Access Registration Representative	Business Office Clerical
Bashirah Hedgepeth	Patient Access Registration Representative	Business Office Clerical
Iesha King	Patient Access Registration Representative	Business Office Clerical
Kafiah Mallory	Patient Access Registration Representative	Business Office Clerical
Kenneth M. Philson	Patient Access Registration Representative	Business Office Clerical
Rhonda Prioleau	Patient Access Registration Representative	Business Office Clerical
Aricka Ragland	Patient Access Registration Representative	Business Office Clerical
Stephanie Ray	Patient Access Registration Representative	Business Office Clerical
Shirley Registre	Patient Access Registration Representative	Business Office Clerical
Ernestine Roberts	Patient Access Registration Representative	Business Office Clerical
Starshema Robinson	Patient Access Registration Representative	Business Office Clerical
Donna Saunders	Patient Access Registration Representative	Business Office Clerical
Shelene K. Smith	Patient Access Registration Representative	Business Office Clerical
Sheena Stone	Patient Access Registration Representative	Business Office Clerical
David Dao	Pharmacist Technician	Technical Employee
Dorothy G. Dixon	Pharmacist Technician	Technical Employee
Diana Guzman	Pharmacist Technician	Technical Employee
Celestine Karnga	Pharmacist Technician	Technical Employee
Hwee Jung Kim	Pharmacist Technician	Technical Employee
Inae Lee	Pharmacist Technician	Technical Employee
Marquelda Martinez	Pharmacist Technician	Technical Employee
Kun Rhee	Pharmacist Technician	Technical Employee
Jospehine T. Sebastian	Pharmacist Technician	Technical Employee
Sunish Shah	Pharmacist Technician	Technical Employee
Marys S. Thomas	Pharmacist Technician	Technical Employee
Sherin Joseph	Physical Therapy Aide	Technical Employee
Erin Martin	Physical Therapy Aide	Technical Employee
Decis Gordon	QR Data Specialist	Business Office Clerical
Mavis Duvall	Staffing Specialist	Business Office Clerical
Stacy A. Jordan	Staffing Specialist	Business Office Clerical

Louis Farrar Jr.[1]	Storeroom Lead	Supervisor
Emily Tilghman	Utilization Management Assistant	Business Office Clerical

Ballots Challenged by the Petitioner

Name	Classification[2]	Petitioner Basis for Ineligibility[3]
Maxine Clahar	EKG Tech	Technical Employee
Jasmine Coleman	EKG Tech	Technical Employee
Lavatrice King	EKG Tech	Technical Employee
Catherine Harrity	Radiology Aide	Technical Employee
Mary Johnston	Radiology Aide	Technical Employee
Amanda Moon	Radiology Aide	Professional Employee[4]
Dorothy Nyame	Radiology Aide	Technical Employee
Blasé Canterbury	Radiology Technologist Student	Technical Employee and Insufficient Hours
Jennifer Myuers	Radiology Technologist Student	Technical Employee
Charmaine Boyer	Sterile Processes Tech	Technical Employee

Ballot Challenged by the Board Agents

Name	Reason for Challenge	Party – Position on Challenge
Elaine Creamer	Not on List	Employer – Paramedic ineligible to vote Petitioner – Emergency Room Technician eligible to vote

During the hearing, the Petitioner withdrew its challenges to the ballots of Charmaine Boyer, Amanda Moon, Dennis Richardson, and Maxine Spivey and the parties stipulated that

[1] The Stipulated Election Agreement is silent as to the Storeroom Lead classification. However, the Employer placed Mr. Farrar's name and contact information in its voter list for challenged classifications and the Board Agents challenged him on that basis.

[2] The job classifications are listed as clarified during the Hearing.

[3] The basis for ineligibility reflects Petitioner's stated position at the Hearing. During the election, Petitioner's challenges were made on the basis that the voters were professional employees ineligible to vote. However, during the hearing Petitioner modified its position to allege that the voters it challenged at the election are technical employees. The Employer objected, and its objection is overruled. Petitioner is entitled to argue alternative grounds of ineligibility for the challenged voters. *Anchor-Harvey Components, LLC,* 352 NLRB 1219 (2008).

[4] Amanda Moon's job classification is listed as CNA-PCA in the Notice of Hearing on Challenged Ballots. The reason for the challenge appears as stated during the election. However, Petitioner withdrew its challenge to Moon's ballot prior to testimony during the Hearing clarifying that Moon is classified as a Radiology Aide.

they are nonprofessional employees eligible to vote in the election. Therefore, I recommend that their ballots be opened and counted.

After conducting a hearing and carefully reviewing the evidence as well as the arguments made by the parties, I conclude that Wanda Singletary, Cheryl Hines, Danyel Caliman-Allen, Mitsuko Powell, Pamela Johnson, Linda M. Bethea, Porsche Ray, Tracy Luong, Andrea Alston, Ann Aytch, Terri Robinson, Denise Colon, Chakana Conwell, David Dao, Diana Guzman, Hwee Jung Kim, Inae Lee, Kun Rhee, Sunish Shah, Dorothy G. Dixon, Celestine Karnga, Marquelda Martinez, Jospehine T. Sebastian, Marys S. Thomas, Sherin Joseph, Erin Martin, Decis Gordon, Maxine Clahar, Jasmine Coleman, Lavatrice King, Catherine Harrity, Mary Johnston, Dorothy Nyame, and Jennifer Myuers are eligible to vote in a unit consisting of nonprofessional employees in an acute care hospital, and therefore recommend that the challenge to their eligibility be overruled and their ballots be opened and counted.

I further conclude that the Petitioner failed to meet its burden to establish that Louis Farrar Jr. is a supervisor as defined in Section 2(11) of the Act, and therefore recommend that the challenge to his eligibility be overruled and his ballot be opened and counted.

In addition, I conclude that Lenora Drummond, Tee Dubose, Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells, Sherri Woodley, Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene K. Smith, Sheena Stone, Mavis Duvall, Stacy A. Jordan, Emily Tilghman, and Elaine Creamer are not eligible to vote as they are not nonprofessional employees, and therefore recommend that the challenge to their eligibility be sustained and their ballots not be opened and counted.

Finally, I conclude that Tee Dubose and Blasé Canterbury are not eligible to vote as they did not work an average of four hours in the 13-week period immediately preceding the election eligibility date, and therefore recommend that the challenge to their eligibility be sustained and their ballots not be opened and counted.

After recounting the procedural history below, I will discuss the applicable burdens of proof and the Employer's operation. Finally, I will discuss each challenged ballot.

PROCEDURAL HISTORY

The Petitioner filed a petition in Case 04-RC-191143 on January 11, 2017. Pursuant to a Stipulated Election Agreement approved by the Regional Director on January 23, 2017, an election by secret ballot was conducted on February 7, 2017 in the following unit:

> **Included**: All full-time, regular part-time and per diem non-professional employees employed by the Employer at its 501 South 54th Street, Philadelphia, Pennsylvania facility.
>
> **Excluded**: All other employees, including managerial employees, technical employees, professional employees, business office clerical employees, guards and supervisors as defined in the Act.

Others permitted to vote: The parties have agreed that Clerk General, Clerk Radiology, Discharge Planning Assistant, EEG Technician, Endoscopy Technician, Health Information Liaison, Health Information Management Clerk, Nutrition Aide, Occupational Health Assistants, OR Technicians, Patient Access Registration Representative, Pharmacist Technician, Physical Therapy Aides, QR Data Specialist, Staffing Specialists, and Utilization Management Assistant may vote in the election but their ballots will be challenged since their eligibility has not been resolved. No decision has been made regarding whether the individuals in these classifications or groups are included in, or excluded from, the bargaining unit. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

The Tally of Ballots prepared at the conclusion of the election on February 7, 2017 shows that of approximately 347 eligible voters, 132 ballots were cast for and 97 ballots were cast against the Petitioner, with 72 challenged ballots. The challenged ballots are determinative of the results of the election.

The Regional Director for Region 4 ordered that a hearing be conducted to give the parties an opportunity to present evidence regarding the challenged ballots. On March 22 and 23, 2017, as Hearing Officer designated to conduct the hearing and to recommend to the Regional Director whether to overrule or sustain the challenged ballots, I heard testimony and received into evidence relevant documents. Both parties timely filed briefs. Those briefs have been fully considered.[5] This Report contains my findings and recommendations regarding the determinative challenged ballots.[6]

The Notice of Hearing on Challenged Ballots in this matter instructs me to resolve the credibility of witnesses testifying at the hearing and to make findings of fact. Unless otherwise specified, my summary of the record evidence is a composite of the testimony of all witnesses, including in particular testimony by witnesses that is consistent with one another, with documentary evidence, or with undisputed evidence, as well as testimony that is uncontested. Omitted testimony or evidence is either irrelevant or cumulative. Credibility resolutions are based on my observations of the testimony and demeanor of witnesses and are more fully discussed within the context of my discussion of the challenged ballots related to the witnesses' testimony.

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[5] In its brief, the Petitioner failed to put forth arguments in support of its challenges to the ballots of employees in the following classifications: Endoscopy Technician, Occupational Health Assistant, Physical Therapy Aide, and Radiology Aide. However, Petitioner did not withdraw its challenge to the eligibility of the employees in those classifications.

[6] During the hearing and in its brief, the Employer made several motions to dismiss Petitioner's challenges to the eligibility of disputed classifications to vote in the election. I hereby deny the Employer's motions. There are no grounds for finding that Petitioner's challenges were made improperly or that it waived its rights to challenge the eligibility of voters it contends are not eligible to vote.

The Employer's request for information regarding whether certain employees voted in the election is also denied.

BURDENS OF PROOF

The burden of proof generally rests on the party seeking to exclude a challenged individual from voting. *Sweetener Supply Corp.*, 349 NLRB 1122 (2007), citing *Golden Fan Inn*, 281 NLRB 226, 230 fn. 24 (1986). Even where the Board agents challenged the ballots, it is the party seeking to establish their ineligibility that bears the burden of proof. Id, citing *Arbors at New Castle*, 347 NLRB 544, 545-546 (2006). However, Petitioner contends that it does not bear the burden of proof to establish that the employees who voted subject to challenge pursuant to the Stipulated Election Agreement are ineligible to vote.

By agreeing to defer a resolution concerning the eligibility of the disputed classifications until after the election if it became necessary, the parties acted in furtherance of Board policy encouraging the use of stipulated election agreements as a means to resolve questions concerning representation and avoid the delay and expense of a hearing. *National Labor Relations Board Casehandling Manual Part Two Representation Proceedings*, Section 11012 (January 2017). Section 102.64(a) of the Board's Rules and Regulations states:

> The purpose of a hearing conducted under Section 9(c) of the Act is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit appropriate for the purpose of collective bargaining or concerning a unit in which an individual or labor organization has been certified or is being currently recognized by the employer as the bargaining representative. Disputes concerning individuals' eligibility to vote or inclusion in an appropriate unit ordinarily need not be litigated or resolved before an election is conducted.

Because pre-election hearing proceedings are investigatory in nature, no party bears the burden of proof on an issue, unless the issue involves a statutory presumption. See *Allen Healthcare Services*, 332 NLRB 1308 (2000). Consequently, Petitioner would not have borne the burden to establish the ineligibility of the disputed classifications had it opted not to enter into a stipulated election agreement. By entering into a stipulated election agreement allowing employees in the disputed classifications to vote subject to challenge, the parties merely delayed pre-election litigation to a later day. Imposing the burden of proof on Petitioner with regard to the voters in the classifications that voted subject to challenge by mutual agreement of the parties would discourage the practice of entering into stipulated election agreements and undermine Board policy.

The Board's decisions in *Golden Fan Inn*, 281 NLRB 226 (1986) and its progeny, detailed above, are inapplicable to this case because they involve challenges by Board agents to voters who were not on the eligibility list. Therefore, I will make determinations regarding the eligibility of Wanda Singletary, Cheryl Hines, Danyel Caliman-Allen, Mitsuko Powell, Pamela Johnson, Linda M. Bethea, Porsche Ray, Tracy Luong, Andrea Alston, Ann Aytch, Terri Robinson, Dennis Richardson, Maxine M. Spivey, Denise Colon, Chakana Conwell, Lenora Drummond, Tee Dubose, Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells, Sherri Woodley, Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts,

Starshema Robinson, Donna Saunders, Shelene K. Smith, Sheena Stone, David Dao, Dorothy G. Dixon, Diana Guzman, Celestine Karnga, Hwee Jung Kim, Inae Lee, Marquelda Martinez, Kun Rhee, Jospehine T. Sebastian, Sunish Shah, Marys S. Thomas, Sherin Joseph, Erin Martin, Decis Gordon, Mavis Duvall, Stacy A. Jordan, and Emily Tilghman based on the testimony and evidence adduced at the hearing.

However, Petitioner bears the burden of proof to establish that the voters it challenged during the election, Maxine Clahar, Jasmine Coleman, Lavatrice King, Catherine Harrity, Mary Johnston, Amanda Moon, Dorothy Nyame, Blasé Canterbury, Jennifer Myuers, and Charmaine Boyer are ineligible to vote. *Golden Fan Inn*, supra.

The Employer bears the burden of proof to establish that Elaine Creamer is ineligible to vote. *Golden Fan Inn*, supra.

Finally, Petitioner bears the burden of proof to establish that Louis Farrar Jr. is a supervisor as defined in the Act and is thus ineligible to vote. *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 712 (2001).

THE EMPLOYER'S OPERATIONS

The Employer, a division of Mercy Catholic Medical Center, operates a 157-bed acute care hospital located at 501 South 54th Street, Philadelphia, Pennsylvania. Mercy Catholic Medical Center is comprised of two additional hospitals—Mercy Nazareth Hospital, also located in Philadelphia, Pennsylvania; and Mercy Fitzgerald Hospital, located in Darby, Pennsylvania. Mercy Catholic Medical Center also operates a corporate business office in Conshohocken, Pennsylvania that manages corporate affairs for all three hospitals. The corporate office employs senior executives, as well as employees who perform business and office clerical functions including billing, credentialing, insurance verification, payroll, and human resources.

This matter only involves employees employed at Mercy Philadelphia Hospital. The Employer's 54th Street facility (herein called the Hospital) occupies one large building made up of central structure connected to six wings via hallways. The building consists of eight floors, but all the disputed classifications in this case are spread throughout the first seven floors of the building. The Hospital provides many medical services; including emergency care, oncology, psychiatric care, radiology, and physical therapy.

The Employer uses a pay grade system to assign wage ranges to each job classification. There are two types of pay grade scales relevant to this case—the Foundation Pay Scale and the General House Pay Scale. The Foundation Pay Scale ranges from F01 to F20, where F01 contains the lowest pay ranges and F20 contains the highest pay ranges. This pay scale targets wages to the 50th percentile of market wages. The General House Pay Scale ranges from G01 to G23, where G01 contains the lowest pay ranges and G23 contains the highest pay ranges. This pay scale targets wages to the 60th percentile of market wages.

THE HEALTHCARE RULE

The Board's Healthcare Rule (Appropriate Bargaining Units in the Healthcare Industry), provides that, except in "extraordinary circumstances" or where nonconforming units already

exist, the only units appropriate in an acute-care hospital are the following, and combinations thereof: (1) all registered nurses; (2) all physicians; (3) all professionals except for registered nurses and physicians; (4) all technical employees; (5) all skilled maintenance employees; (6) all business office clerical employees; (7) all guards; and (8) all nonprofessional employees except for technical employees, skilled maintenance employees, business office clerical employees, and guards. 54 FR at 16336-48 (1989); 284 NLRB at 1579-97 (1987); see also *American Hospital Association v. NLRB*, 499 U.S. 606 (1991) (upholding the Board's Healthcare Rule).

The Board specified that the "extraordinary circumstances" exception must be narrowly construed, so that it may not serve as an excuse for unnecessary litigation or delay. *Virtua Health, Inc.*, 344 NLRB 604, 609 (2005). Only in "truly extraordinary" circumstances should adjudication be necessary to determine the appropriate unit.[7] *Collective-Bargaining Units in the Health Care Industry; Final Rule*, 54 FR 16336, 16345 (1989); 284 NLRB 1579, 1593; see also *Virtua Health*, 344 NLRB at 609. Accordingly,

> the party urging extraordinary circumstances bears a heavy burden to demonstrate that its arguments are substantially different from those that the Board considered in the rulemaking proceedings—for example, that there are such unusual and unforeseen deviations from the range of circumstances already considered that it would be unjust or an abuse of discretion for the Board to apply the Rule.

Virtua Health, supra at 609 (citing *Boston Med. Ctr. Corp.*, 330 NLRB 152, 167 fn. 35 (1999); *Dominican Santa Cruz Hosp.*, 307 NLRB 506, 507 (1992); *St. Margaret Memorial Hosp.*, 303 NLRB 923 (1991), enfd. 991 F.2d 1146 (3d Cir. 1993); *Collective-Bargaining Units in the Health Care Industry; Second Notice of Proposed Rulemaking*, 53 FR 33900, 33933 (1988); 284 NLRB 1527, 1574; 54 FR. at 16345, 284 NLRB at 1593 (footnote omitted).

NONPROFESSIONAL EMPLOYEES

The unit sought to be represented in this case consists of the "all nonprofessional employees except..." unit designated as appropriate in the Board's Healthcare Rule. The Board has consistently found that a unit of nonprofessional employees will generally include all service and maintenance employees. See 53 FR at 33926-33927; 284 NLRB at 1565-1566. This unit is analogous to plant wide production and maintenance units in the industrial sector and, as such, is the classical appropriate unit. *Newington Children's Hospital,* 217 NLRB 793 (1975). Employees in this category generally perform manual and routine job functions, and are not highly skilled or trained. Historically, nonprofessional units have included hospital clericals while excluding business office clericals, as prescribed by the Board's Healthcare Rule. See *Mercy Hospitals of Sacramento, Inc.*, 217 NLRB 765, 770 (1975).

[7] In its Second Notice of Proposed Rulemaking, the Board specifically excluded the following circumstances from justifying an exception to the Rule: diversity of the industry; increased functional integration of work contacts among employees; impact of nationwide hospital chains; recent changes within traditional employee groupings and professions; effects of various governmental and private cost-containment measures; and single institutions occupying more than one contiguous building. 53 FR at 33932, 284 NLRB at 1574.

BUSINESS OFFICE CLERICALS VS. HOSPITAL CLERICALS

Although hospitals employ many individuals whose jobs are primarily clerical, "rooted in community of interest considerations, including the performance of different functions for different purposes in separate work areas under separate supervision," over 40 years ago, in *Mercy Hospitals of Sacramento, Inc.,* supra at 770 (1975), the Board decided that "in the health care field, as in the industrial sphere," all clerical employees should not be included in the same unit. Rather, the Board held:

> We shall continue to recognize a distinction between business office clerical employees, who perform mainly business-type functions, and other types of clerical employees whose work is more closely related to the function performed by personnel in the service and maintenance unit and who have, in the past, been traditionally excluded by the Board from bargaining units of business office clerical employees. Thus, the Board has consistently recognized that the interests of business office clerical employees differ markedly from the interest of clerical employees who work in the production areas and has declined to establish bargaining units composed of the two groups.

Thus, in *St. Luke's Episcopal Hospital,* 222 NLRB 674, 676 (1976) the Board established the following guidelines in hospital cases for determining whether clericals are business office clericals (BOCs):

> Business office clericals are those clerical employees who, because they perform business office functions, have minimal contact with unit employees or patients, work in geographic areas of the hospital, or perform functions, separate and apart from service and maintenance employees, and thus do not share a community of interest with the service and maintenance unit employees.

BOCs generally work in the administration, planning and development, public relations, personnel, accounting, management engineering, internal audit, pastoral care and education, communications, medical education, community affairs, credit union and purchasing departments. BOCs also work in a hospital's "admitting, data processing, payroll, and business office departments." *Trumbull Memorial Hospital,* 218 NLRB 796 (1975).

The clerical work of BOCs is generally limited to finance, billing, and insurance, and is not directly involved in patient care or with physical or environmental health. *Lifeline Mobile Medics, Inc.,* 308 NLRB 1068 (1992). In this regard, BOCs work in data entry and data processing, even though the data they handle originates throughout the hospital. *Rhode Island Hospital,* 313 NLRB 343, 361 (1993). Receptionists and admitting clerks are also generally included in a BOC unit. *St. Elizabeth's Hospital of Boston,* 220 NLRB 325 (1975). BOCs deal with Medicare, Medicaid, and other reimbursement systems. *Lincoln Park Nursing Home,* 318 NLRB 1160, 1164 (1995).

By contrast, hospital clericals work throughout the hospital, alongside, and with similar objectives, as patient-care employees. *St. Francis Hospital,* 219 NLRB 963, 964 (1975). They generally have continual contact with patients and other service and maintenance employees, are physically separated from business office employees, work primarily with patients and patients' records rather than the materials with which BOCs work, and are not supervised by the people who supervise BOCs. *William W. Backus Hospital,*. 220 NLRB 414, 415 (1975).

Employees may be considered hospital clericals even if their work is not directly involved in patient care. Clerical employees whose work is not directly connected and related to patient care, but who come in frequent contact with unit employees in the nonprofessional unit, and do not perform tasks related to the business offices, are viewed as sharing a sufficient community of interest with nonprofessional employees to be considered hospital clericals, and are included in their unit. *Baptist Memorial Hospital,* supra at 1167-1168; *St. Luke 's Episcopal Hospital, supra,* at 677. Similarly, medical records employees are sometimes considered hospital clericals, not BOCs, because they work largely with patients' medical records, are located in areas near other nonprofessional unit employees, have frequent contact with employees who deal directly with patients, and little contact with admitted BOCs. *Rhode Island Hospital,* supra at 362-363. However, when medical records employees are geographically isolated, they are classified as BOCs. *St. Luke 's Episcopal Hospital,* supra at 677.

TECHNICAL EMPLOYEES

Technical employees are excluded from the stipulated unit in this case. In its Second Notice of Proposed Rulemaking, the Board explained that technical jobs in the healthcare field involve the use of independent judgment and specialized training, and can be found in major occupational groups such as medical laboratory, respiratory therapy, radiography, emergency medicine and medical records. 53 FR at 33918, 284 NLRB at 1553; see also *Specialty Hosp. of Washington-Hadley, LLC*, 357 NLRB 814 (2011); *New Orleans Public Servs.*, 215 NLRB 834, 836 (1974). Healthcare technical jobs require significant education or training beyond high school, which can be obtained by completing an associate's degree from a community college, a vocational training program run by a hospital, a course of studies at an accredited technology school, and in some fields, by completing a 4-year college degree. 53 FR at 33918; 284 NLRB at 1554. Although the laws on licensing, training, registration, and qualifications vary across the country, most technical employees are certified (usually by a national examination), licensed, or registered with state authorities. Id.; see also *Rhode Island Hosp.*, 313 NLRB 343, 353 (1993); *Barnert Memorial Hospital*, 217 NLRB 775, 776 (1975). Technical employees generally earn more than other nonprofessionals in the healthcare industry. 53 FR at 33918-19, 284 NLRB at 1554.

As defined by the Board, "[t]echnical employees . . . are distinguished by the support role they play within the hospital, and by the fact that they work in patient care." 53 FR at 33918; 284 NLRB at 1554. With the exception of licensed practical nurses (LPNs), technical employees do not work in patient care areas. 53 FR at 33919; 284 NLRB at 1554-55. Instead, they typically work in laboratories or in technical departments, performing tasks such as processing and reviewing patient specimens, performing routine clinical tests, administering blood gas studies, providing general respiratory care, taking x-rays, performing ultrasound procedures, computerized tomography (CT) scans, electrocardiograms (EKG), and electroencephalographs (EEG), all of which are considered ancillary services and diagnostic in nature. Id. They typically work regular daytime hours, with skeleton crews in the evenings, at night, and on weekends. 53 FR at 33919; 284 NLRB at 1554. Due to differences in their respective skill sets, functions, and educational backgrounds, there is no temporary interchange and little permanent interchange between technical employees and other nonprofessionals. 53 FR at 33919; 284 NLRB at 1555.

THE CHALLENGED BALLOTS

I will now address each challenged ballot in order of disputed job classification and will set forth my analysis and recommendation as to each classification.

A. *Withdrawn Challenges*

During the hearing, the parties resolved certain challenged ballots. Specifically, the parties stipulated that Charmaine Boyer, Amanda Moon, Dennis Richardson, and Maxine Spivey are nonprofessional employees eligible to vote in the election. Therefore, consistent with this stipulation, as Petitioner has withdrawn its challenges as to these ballots, I recommend that the ballots of Charmaine Boyer, Amanda Moon, Dennis Richardson, and Maxine Spivey be opened and counted.

B. The Alleged Technical Employees

1. EEG Technician: Pamela Johnson

The Employer contends that the classification of EEG Technician must be included in the nonprofessional unit. Petitioner argues that this is a technical classification, which is excluded from the unit.

The EEG technician works in the Respiratory Center on the third floor of the Hospital. Pamela Johnson is employed as the Employer's only EEG technician. In this position, she is responsible for calibrating and operating the EEG machine, which measures brain waves and seizure activity. Specifically, Johnson calibrates the EEG machine by pressing a button to zero out the readings in preparation for a test. She then places leads on a patient's head and runs the test. While the test is running, Johnson is responsible for ensuring that the machine obtains a reading throughout the testing period. After the conclusion of the test, she removes the leads from the patient and escorts the patient out of the testing area. Johnson then uploads the test results into the computer and notifies the physician that the test results are available. Ada Matthews, Manager of the Respiratory Therapy Department, serves as Johnson's direct supervisor and testified that Johnson's job duties do not include reading or interpreting the EEG results, despite the fact that she is capable of doing so. Johnson's performance evaluation does not rate her performance on her ability to read and interpret test results.

The educational requirements for the EEG Technician are a high school diploma and a certification for EEG technology. This certification involves completion of a one-year training program at an accredited institution and a certification exam. Although not similarly certified, EKG Technician Maxine Clahar fills in for Johnson when she is unavailable. Clahar performs the same job duties as Johnson when she fills in as the EEG Technician. However, Clahar is not able to interpret the results. In order to train for the position, Clahar attended a one-week training program with the manufacturer of the EEG machine.

Johnson works the day shift, 7:30 a.m. to 4:00 p.m. She is paid at the F09 pay grade and earns $24.12 per hour.

The Board has included EEG technicians in nonprofessional units. *Barnert Memorial Hospital Center*, supra at 778 (1975); *Memorial Hospital of Cudahy*, 219 NLRB 215, 218 (1975); *St. Elizabeth's Hospital of Boston*, 220 NLRB 325, 329 (1975); *William W. Backus Hospital*, supra at 417 (1975); *Pontiac Osteopathic Hospital*, 227 NLRB 1706, 1707 (1975). In each of those decisions, the Board emphasized the lack of independent judgment as a key factor. Where EEG technicians have been found as technical employees, the Board has relied on evidence that the EEG technician evaluates data, thus exercising independent judgment. See *Southern Maryland Hospital*, 274 NLRB 1470, 1476 (1975) (including EEG technician in technical unit).

Here, Matthews testified, and Johnson's performance evaluation confirms, that Johnson is not expected to evaluate test results and is not rated on her ability to do so. Her job duties as described do not involve the use of independent judgment. Although the EEG technician is required to go through a one-year certification program, Clahar is capable of fully performing Johnson's job responsibilities after attending a one-week training seminar. Overall, the evidence establishes that the classification of EEG Technician should be included in the unit of nonprofessional employees.

Accordingly, I conclude that the EEG Technician Pamela Johnson be included in the unit and her ballot be opened and counted.

2. EKG Technician: Maxine Clahar, Jasmine Coleman, and Lavatrice King

The Employer contends that the classification of EKG Technician must be included in the nonprofessional unit. Petitioner argues that this is a technical classification, which is excluded from the unit.

The three EKG technicians work in the Cardiology Unit on the third floor of the Hospital. They are responsible for operating EKG equipment, placing leads on patients in preparation for the testing, and ensuring that the test is recording the results. An EKG measures electrical activity in the heart. In placing the 12 leads on a patient in preparation for the test, the EKG technicians are guided by markings on the leads that direct the EKG technician where to place each lead. The EKG technicians do not read, evaluate, or interpret test results.

The Employer does not require EKG technicians to possess any specialized certifications or licensures. However, some EKG technicians hold degrees from an EKG certificate program. The Employer requires that applicants possess one to two years of prior EKG experience. EKG technicians are not the only employees of the Employer who perform EKG tests. Emergency Room technicians, who are in the stipulated unit, also perform EKG tests as part of their regular job duties. In addition, EKG Technician Maxine Clahar occasionally fills in for the EEG Technician, who, as discussed above, I find to be properly included in the nonprofessional unit.

EKG technicians are paid at the F05 pay grade and earn between $16.07 and $19.41 per hour. Emergency Room technicians are paid at the same pay grade. EKG technicians are directly supervised by Manager Sandy Dengel.

The Board has found EKG technicians to be nonprofessional employees. *Barnert Memorial Hospital Center*, supra at 777; *Trinity Memorial Hospital of Cudahy,* supra at 218; *St. Elizabeth's Hospital of Boston*, supra at 329; *William W. Backus Hospital*, supra at 417; *Pontiac*

Osteopathic Hospital, supra at 1707; *Southern Maryland Hospital*, supra at 1473. In each of these cases, the Board noted the lack of licensure requirements, the routine nature of EKG technicians' work, and the lack of independent judgment in the exercise of their duties.

Here, EKG technicians are not required to possess any specialized certificates or licensures as a condition of employment. Their duties are routine in nature and they do not exercise any independent judgment, even when it comes to the placement of leads on a patient's body. Moreover, Emergency Room technicians also perform EKG tests, bolstering the conclusion that EKG technicians do not perform the type of specialized and technical work that is commonly associated with technical employees. Moreover, the Hospital employs EKG technicians and Emergency Room technicians at the same pay grade. Therefore, the evidence shows that the classification of EKG Technician should be included in the unit of nonprofessional employees.

Accordingly, I conclude that EKG Technicians Maxine Clahar, Jasmine Coleman, and Lavatrice King be included in the unit and their ballots be opened and counted.

3. Endoscopy Technician: Linda M. Bethea and Porsche Ray

The Employer contends that the classification of Endoscopy Technician must be included in the nonprofessional unit. Petitioner argues that this is a technical classification, which is excluded from the unit.

The Employer's two endoscopy technicians work on the fourth floor of the hospital in the Endoscopy Department. Their primary job functions involve assisting physicians in performing endoscopies and colonoscopies. These procedures involve the insertion of scopes into patients to examine their gastrointestinal tracts. According to Director of Nursing Linda Fleming, who directly supervised employees in this classification until early 2017, Bethea and Ray also clean the scopes after they are used and prepare the examination rooms for the next patient. In assisting physicians, they are expected to follow the physician's instructions to hold the scope, press on the patient's abdomen, or turn the patient on his or her side. Bethea's annual performance evaluation described her primary job duties as follows:

> ...The Endoscopy Technician is primarily responsible for maintaining the fiberoptic equipment and the general cleanliness of the entire unit. The Endoscopy Technician will also occasionally perform nursing assistant and receptionist/ clerical functions on the unit...

Endoscopy technicians are paid at the F05 pay grade and earn between $18.04 and $19.48 per hour. They are currently supervised by Director of Nursing Nicole Yerger, who also supervises five classifications of employees in the stipulated bargaining unit. Bethea and Ray work the day shift at the Hospital.

Endoscopy technicians lack virtually all of the hallmarks of technical employees as described by the Board. 53 FR at 33918; 284 NLRB at 1554. They do not have any specialized education, they do not exercise independent judgment in the performance of their job duties, and they share common supervision with other nonprofessional employees. Id. Instead, they perform many of the routine and manual job functions traditionally associated with nonprofessional

employees. In sum, the evidence shows that the classification of Endoscopy Technician should be included in the unit of nonprofessional employees.

Accordingly, I conclude that Endoscopy Technicians Linda M. Bethea and Porsche Ray must be included in the unit and their ballots be opened and counted.

4. Occupational Health Assistant: Denise Colon and Chakana Conwell

The Employer contends that the classification of Occupational Health Assistant (OHA) must be included in the nonprofessional unit. Petitioner argues that this is a technical classification.

The Employer's two OHAs work in the Work Care Department (WCD) on the ground floor of the hospital, next to the Emergency Department. The WCD is responsible for caring for Hospital employees who suffer workplace injuries and for administering pre-employment physicals and drug tests to prospective Hospital employees and employees of third-parties. The two OHAs, also known as Medical Assistants, have distinct roles in the WCD, but are trained to perform each other's roles when necessary. Denise Colon acts primarily as a receptionist. She greets patients and registers them for their appointments. She also checks them out after their visit and schedules follow-up appointments and appointments with specialists. Colon spends 90% of her time interacting with patients. Chakana Conwell works in the clinical side of the WCD. She escorts patients to the examination rooms, takes their vitals, prepares them for the physician, and alerts the physician of their arrival. Conwell spends about 50% of her time interacting with patients. Colon and Conwell also draw blood as part of drug testing and they administer breath alcohol tests. According to their position description, OHAs must also perform venipuncture procedures which involve drawing blood. Emergency Room Technicians also may draw blood if they have been certified by the Employer.

Office Coordinator Melinda Slaughter, who is also a medical assistant, fills in for Colon or Conwell when one of them is absent. Slaughter was not eligible to vote in the election. OHAs are paid at the F05 pay grade and earn between $17.85 and $18.13 per hour.

The Employer requires OHAs to possess a high school diploma and to have graduated from a six-to-eight-month medical program. This program requires its graduates to obtain 200 hours of externship experience. The OHA's job description indicates that applicants must hold medical technologist certifications. However, according to Assistant Director of Work Care George Jackson, the Employer does not, in practice, actually require OHAs to hold this certification. Jackson is the direct supervisor of OHAs. OHAs also hold blood alcohol certifications, which involve a 12-hour training course.

In *Rhode Island Hospital,* supra at 357, the Board found that medical practice technicians belonged in the nonprofessional unit, despite the fact that they were required to hold a degree from a medical assistant program, drew blood samples, and performed venipuncture. Considering the nature of OHAs' educational qualifications and the routine, sometimes clerical, nature of their work, I find that they belong in the nonprofessional unit.

Accordingly, I conclude that OHAs Denise Colon and Chakana Conwell must be included in the unit and their ballots be opened and counted.

5. *OR Technician: Lenora Drummond, Tee Dubose, Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells, and Sherri Woodley*

The Employer contends that the classification of OR Technician must be included in the nonprofessional unit. Petitioner argues that this is a technical classification, which is excluded from the unit. The Petitioner also argues that Tee Dubose is not eligible to vote because she failed to meet the election eligibility formula.

Operating Room Technicians (ORTs), also known as surgical technicians, work in the Operating Room Department on the fifth floor of the Hospital. They are responsible for selecting and preparing the instruments to be used during operative procedures. During the operations, the ORT hands the instruments to the surgeon upon his or her request. ORTs rely on their education and understanding of surgical procedures in order to know what instruments are required for each particular type of procedure. Director of Nursing Linda Fleming, who supervised this classification from 2007 to 2014, testified that there are thousands of instruments to choose from and that ORTs know that abdominal procedures, for example, require a certain set of instruments that are not used in other procedures. To assist them in this task, ORTs use surgeon preference cards that indicate each surgeon's particular instrument preferences. Fleming also testified that ORTs use their knowledge and education to know what particular instrument a surgeon needs. For example, Fleming testified that if a surgeon needs a stapler, she will tell the ORT what she needs the stapler for and the ORT will know what type of stapler to hand the surgeon based on what it is going to be used for.

In order to perform their duties, ORTs must successfully complete a six-month to two-year surgical perioperative program from an accredited institution. The ORT performance evaluation and job description also indicates that the Employer prefers employees with an Association of Surgical Technologists Certification. However, Fleming testified that she had never hired anyone with that certification.

ORTs are employed at the F07 pay grade and earn between $19.57 and $24.72 per hour. They primarily work on the dayshift, but may also be on-call at night and on weekends. They are directly supervised by a Nurse Manager, but are currently being supervised by Interim Manager Dawn Pica, who also supervises classifications in the unit.

The Board has previously held that ORTs belong in technical units where they were required to have specialized training, performed skilled tasks, and showed independent judgment. *Rhode Island Hospital, supra,* at 353-354; *Barnert Memorial Hospital Center*, supra at 780 (certified ORT); *Trinity Memorial Hospital of Cudahy*, supra at 216 (1975); *William W. Backus Hospital,* supra at 418 (1975). In *Meriter Hospital*, 306 NLRB 598, 600-601 (1992), the Board found that ORTs belonged in a technical unit even though they were not required to be certified. The Board instead relied on evidence regarding some of the highly technical tasks performed by the ORTs.

Here, the Employer relies on ORTs to perform the highly technical skill of selecting from thousands of instruments the appropriate ones for each specific surgical procedure. Moreover, ORTs perform these tasks independently. ORTs must also use their specialized knowledge to satisfactorily comply with the surgeon's request for instruments. Finally, they are paid at a significantly higher pay

grade than virtually all the other alleged technical classifications at issue in these proceedings; and higher than the Emergency Room Technicians. Therefore, I find that they should not be included in the nonprofessional unit because they are technical employees.

Accordingly, I conclude that ORTs Lenora Drummond, Tee Dubose, Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells, and Sherri Woodley are excluded from the unit and their ballots not be opened and counted.

Petitioner also contends that Dubose is not eligible to vote because she failed to meet the parties' agreed-upon eligibility formula. The most common eligibility formula for determining the eligibility of irregular part-time employees is the formula found in *Davison-Paxon Co.*, 185 NLRB 21, 24 (1970). Under that formula, employees who average four hours per week for the calendar quarter preceding the election eligibility date are eligible to vote. The Board has explicitly held that the "last quarter prior to the eligibility date" refers to the 13-week period immediately before the eligibility date. See *Woodward Detroit CVS, LLC*, 355 NLRB 1115, 1115 (2010), citing *Hardy Herpolsheimer's*, 227 NLRB 652 (1976). The parties adopted this eligibility formula in the Stipulated Election Agreement.

Applying the *Davison-Paxon* test, the 13-week period immediately preceding the January 14, 2017 eligibility date is October 15, 2016 to January 14, 2017. According to the Dubose's payroll record, she worked 16.75 hours, an average of 1.29 hours per week during the 13-week period immediately preceding the election eligibility date. Applying the *Davison-Paxon* test, I conclude that Dubose did not work a sufficient period of time in the last quarter prior to the election eligibility date to qualify as a regular part-time employee and is therefore also not eligible to vote in the election on this basis.

6. *Pharmacy Technician and Pharmacy Student: David Dao, Dorothy G. Dixon, Diana Guzman, Celestine Karnga, Hwee Jung Kim, Inae Lee, Marquelda Martinez, Kun Rhee, Jospehine T. Sebastian, Sunish Shah and Marys S. Thomas*

The Employer contends that the classifications of Pharmacy Technician and Pharmacy Student must be included in the nonprofessional unit. Petitioner argues that these are technical classifications, which are excluded from the unit.

The Hospital employs five pharmacy technicians: Dorothy Dixon, Celestine Karnga, Marquelda Martinez, Marys S. Thomas, and Josephine Sebastian; and six pharmacy students: David Dao, Diana Guzman, Hwee Jung Kim, Inae Lee, Kun Rhee, and Sunish Shah. They all work in the Pharmacy Department on the ground floor of the Hospital. The pharmacy technicians assist pharmacists under the direct supervision of the pharmacist. They are responsible for preparing intravenous (IV) and oral medications pursuant to strict instructions generated by a computer. After preparing the medication, they initial and then place pre-printed labels and notices on the medication. After they prepare the medication, a pharmacist reviews the pharmacy technician's work and initials the labels. Pharmacy technicians are also responsible for restocking medication, checking medication expiration dates, filling in a refrigerator temperature log, and the clerical work of answering telephone calls to the pharmacy.

In addition to their duties in the pharmacy, the pharmacy technicians travel throughout the Hospital to deliver medication, restock mobile emergency pharmaceutical stations called "crash carts," and refill Pyxis machines that automatically dispense medication. In performing these tasks, the pharmacy technicians do not make any judgments regarding how much or which medications should be stocked or refilled. Instead, they are specifically directed by hospital directives and protocols.

The Employer does not require pharmacy technicians to hold specialized training or certifications at the time of their hire. However, the Employer requires that pharmacy technicians obtain a Pharmacy Technician Certification within six months of their start date. Many employees attend a semester-long to six-month training program prior to seeking this certification. However, according to Pharmacy Manager Harry Crimi, employees may take and pass the certification exam without attending any formal course of study. Employees with at least five years of prior experience as pharmacy technicians are not required to become certified. Pharmacy Technicians are employed in the F05 pay grade and earn between $16.48 and $21.26 per hour. They work three shifts between 7:00 a.m. and 11:30 p.m.

Pharmacy students perform the same job duties as the technicians. However, they are students enrolled in pharmacy school in pursuit of pharmacy degrees. The Employer requires students to have finished their first two years of college and be enrolled in the first professional year of pharmacy school in order to be considered for employment. The students obtain an intern certificate to get credit-hours toward their degree. The students work one eight-hour shift every weekend and are employed at the F04 pay grade, earning $15.60 per hour.

The Board has generally placed pharmacy technicians in the nonprofessional unit. *Rhode Island Hospital,* supra at 356; *Southern Maryland Hospital,* supra at 1474; *Mercy Hospitals of Sacramento,* supra at 771; *St. Catherine's* Hospital, supra at 790; *Medical Arts Hospital of Houston*, supra at 1018. Petitioner cites *Duke University*, 226 NLRB 470 (1976), in support of its contention that the pharmacy technicians are technical employees. However, in that case the Board implicitly found that they used independent judgment in the exercise of their duties. Id at 472. Here, the pharmacy technicians perform routine duties under strict parameters and directives. Moreover, all of their work is reviewed by a pharmacist. In addition, their wages are comparable to those of the unit classification of Emergency Room Technician. Therefore, I find that the classifications of Pharmacy Technician and Pharmacy Student belong in the nonprofessional unit.

Accordingly, I conclude that Pharmacy Technicians/Students David Dao, Dorothy G. Dixon, Diana Guzman, Celestine Karnga, Hwee Jung Kim, Inae Lee, Marquelda Martinez, Kun Rhee, Jospehine T. Sebastian, Sunish Shah and Marys S. Thomas must be included in the unit and their ballots be opened and counted.

7. Physical Therapy Aide: Sherin Joseph and Erin Martin

The Employer contends that the classification of Physical Therapy Aide must be included in the nonprofessional unit. Petitioner argues that this is a technical classification, which is excluded from the unit.

The two physical therapy aides work in an out-patient clinic on the first floor of the Hospital, in the Medical Office Building. Their position description and performance evaluation

describes their primary functions as follows: "To perform clinical and administrative support necessary for the daily operations of the department. To assist in the delivery of unskilled treatment under the supervision of a physical or occupational therapist, PT or OT assistant…"

The physical therapy aides check patients in and out, print out the daily schedules for the physical therapists, clean equipment, and perform clerical tasks in the office. A physician may also ask a physical therapy aide to help a patient perform physical therapy exercises. In this event, the physical therapy aides are under clear orders to only do as instructed by the physician. Their performance evaluation rates employee performance on the following directive:

> Consistently follows plan of care as outlined by the therapist. Consistently recognizes when the intervention of a licensed therapist is necessary. Shows understanding that a Rehab Aide is NEVER to work autonomously or outside the direct supervision and guidance of the primary therapist (emphasis in original).

The Employer does not require physical therapy aides to hold any specialized education, licensure, or certification. They are supervised by Director of Rehabilitation Services Patrick O'Connor and wear business casual attire to work. Physical therapy aides are employed at the F02 pay grade and earn between $13.00 and $14.94 per hour.

Physical therapy aides do not perform the type of work associated with technical employees. They are not required to hold special certifications and are expressly prohibited from working independently with patients. Instead, they perform the type of manual tasks and hospital clerical work commonly associated with nonprofessional employees. The Board has previously placed physical therapy aides with similar job function in the nonprofessional unit. See *Mercy Hospital-Cadillac*, 311 NLRB 1091, 1092-93 (1993). Consistent with these findings, I conclude that the Employer's physical therapy aides should be included in the nonprofessional unit.

Accordingly, I conclude that Physical Therapy Aides Sherin[8] Joseph and Erin Martin must be included in the unit and their ballots be opened and counted.

8. Radiology Aide: Catherine Harrity, Mary Johnston, Amanda Moon, and Dorothy Nyame

The Employer contends that the classification of Radiology Aide must be included in the nonprofessional unit. Petitioner argues that this is a technical classification, which is excluded from the unit.

The Hospital employs four radiology aides in the Radiology Department, only three of whom voted in the election, all under challenge—Catherine Harrity, Mary Johnston, and Amanda Moon. The other radiology aide, Dorothy Nyame, works in the Intervention Radiology Department. The radiology aides in the Radiology Department change patients' clothes, transfer patients to and from the examination table, launder dirty linens, stock supplies, answer

[8] During the hearing, O'Connor referred to this voter as Sherman Powell. I have retained the spelling used in the Notice of Hearing on Challenged Ballots.

telephones, and scan paperwork. Their job description and performance evaluations describe their primary function as follows:

> Assists technologists with all non-technical functions. Monitors patients who are waiting for radiology studies.

Two of the radiology aides also cover for the radiology clerk when she is absent or unavailable.

Dorothy Nyame is a radiology aide in the Intervention Radiology Department. Like the other radiology aides, she works alongside registered nurses and technologists. She registers patients arriving at the department, stocks the storeroom in the department, orders supplies, answers the telephone, schedules appointments, "tops" the examination rooms,[9] and obtains insurance pre-authorizations over the telephone

The radiology aides in the Cardiology Department report directly to Radiology Clinical Manager Colleen Nale. Nale also supervises the radiology technologists, clerks, and students. Director of Cardiovascular Services Albertus "Rick" Shaw supervises Nyame in the Intervention Radiology Department. Radiology aides are employed at the F02 pay grade and earn between $16.08 and $17.75 per hour. They are not required to hold any certifications, licensures, or specialized education.

The Board has consistently found that radiology aides are properly placed in the nonprofessional unit. See *Rhode Island Hospital,* supra at 356; *Trinity Memorial Hospital of Cudahy*, supra at 219. Here, radiology aides perform unskilled manual labor and clerical functions in the Radiology Department and Intervention Radiology Department. They are paid at one of the lowest pay grades offered by the Employer and do not have any specialized education or certification. Therefore, I find that the classification of Radiology Aide should be included in the nonprofessional unit.

Accordingly, I find that Radiology Aides Catherine Harrity, Mary Johnston, Amanda Moon, and Dorothy Nyame must be included in the unit and their ballots be opened and counted.

9. Radiology Technologist Student: Blasé Canterbury and Jennifer Myuers

The Employer contends that the classification of Radiology Technologist Student (RTS) must be included in the nonprofessional unit. Petitioner argues that this is a technical classification, which is excluded from the unit.

The Hospital currently employs two RTSs in the Radiology Department on the ground floor of the Hospital. According to Nale, RTSs perform all the duties of radiology technologists, but under their "indirect" supervision. However, there is no record evidence as to what indirect supervision means. Students become eligible to work as RTSs after completing the first year of a two-year radiology technologist program. RTSs perform radiology exams, x-rays, and emit radiation to patients. They also monitor patients to ensure their safety, shield them from unnecessary radiation exposure, and receive relevant patient medical histories. There is no

[9] There is no record evidence as to what this job function entails, but it appears to be related to laundry duties.

evidence regarding why RTSs receive this information or what they do with it. In addition, they perform many of the duties of the radiology aides in the Radiology Department. A job description was not entered into evidence for this classification.

After they graduate from the radiology technologist program, RTSs may apply for a position as a radiology technologist if they pass their state boards and become licensed. RTSs are employed at the F03 pay grade and earn $14.00 per hour. Colleen Nale supervises the RTSs.

The Board has consistently found that radiology technologists are technical employees. *Barnert Memorial Hospital Center*, supra at 778; *Mad River Community Hospital*, 219 NLRB 25 (1975); *Trinity Memorial Hospital of Cudahy*, supra at 217; *Clarion Osteopathic Hospital*, 219 NLRB 248, 249 (1975); *Alexian Brothers Hospital*, 219 NLRB 1122 (1975); *St. Elizabeth's Hospital of Boston*, supra at 328; *William W. Backus Hospital*, supra at 416; *Pontiac Osteopathic Hospital*, supra at 1707. However, RTSs are not certified and are among the lowest paid employees at issue in this case. Nale testified that RTSs perform all the job duties of radiology technologists. However, there is no evidence regarding whether the RTSs' job duties involve the use of independent judgment. Moreover, RTSs work under the indirect supervision of radiology technicians, although there is no evidence regarding how exactly the RTSs' are supervised. Because Petitioner challenged this classification during the election, it bears the burden of proof to establish that RTSs are technical employees. I find that Petitioner failed to meet that burden because there is no evidence that RTSs exercise independent judgment in the course of their work. Therefore, I find that RTSs are nonprofessional employees and should be included the unit.

Accordingly, I conclude that the ballot of RTS Jennifer Myuers[10] must be opened and counted.

Petitioner contends that Blasé Canterbury is not eligible to vote because she failed to meet the parties' election eligibility formula. See above discussion of the *Davison-Paxon* formula. According to the Canterbury's payroll record, she worked 34.5 hours, an average of 2.65 hours per week during the 13-week period immediately preceding the election eligibility date. However, this calculation presumes that Canterbury was employed as of October 15, 2016. Nale's testimony casts doubt on this issue. She testified that Canterbury would have begun working for the Employer after completing her orientation. The payroll documents show that her first week of orientation took place the week of November 10, 2016. However, even if I was to assume that the Employer hired Canterbury on November 10, 2016, Canterbury still averaged less than four hours per week from the date she was hired to the election eligibility date. Therefore, I conclude that Canterbury did not work a sufficient period of time prior to the election eligibility date to qualify as a regular part-time employee.

Accordingly, I conclude that the ballot of Blasé Canterbury not be opened and counted.

[10] The Employer's documentary evidence suggests that the correct spelling of this name is Jennifer Myers. Nevertheless, I have maintained the spelling used in the Notice of Hearing on Challenged Ballots.

C. The Alleged Business Office Clericals

1. Clerk General: Wanda Singletary

The Employer contends that the classification of Clerk General must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

Clerk General Wanda Singletary works as the Employer's sole mailroom clerk out of the mailroom on the first floor of the Hospital. She is directly supervised by Director of Material Services Joseph Short, who also supervises the following unit classifications: Storeroom Associate and Laundry Associate. However, she generally works by herself in the mailroom sorting incoming and outgoing mail and acting as the point of contact for the United States Postal Service, FedEx, and other courier services. She also delivers mail throughout the hospital and deposits it into the appropriate departmental bins. She spends approximately 90% of her time working in the mailroom.

Because she spends the vast majority of her time in the mailroom, her contact with unit employees is very limited. Storeroom Lead Louis Farrar Jr. normally fills in for Singletary's duties in her absence. Prior to working in the mailroom, Singletary was employed as the storeroom clerk and worked in the storeroom, on the first floor of the Hospital. The storeroom clerk duties are now performed by Farrar.

The Employer does not require the Clerk General to hold any qualifications beyond a high school degree or General Equivalency Degree (GED). The position is classified at the F02 pay grade and Singletary earns $16.02 per hour. Singletary works Monday through Friday from 8:30 a.m. to 3:30 p.m., and wears business casual attire to work.

There are Board cases finding that mailroom clerks belong in the nonprofessional unit, while others have placed this classification into the BOC unit. *St. Luke's Episcopal Hospital*, supra at 677-78 (nonprofessional unit); *Jewish Hospital of Cincinnati*, 223 NLRB 614, 622 (1976) (nonprofessional unit); *Duke University*, 226 NLRB 470, 471 (1976) (nonprofessional unit); *Trumbull Memorial Hospital*, supra at 797 (BOC unit); Seton Medical Center, 221 NLRB 120 (1975) (BOC unit). Because there is no bright line rule, these rulings often turned on the unique facts of each case. Here, Singletary clearly shares a community of interest with employees in the nonprofessional unit. She was formerly employed as a hospital clerical in the storeroom and worked with employees in the nonprofessional unit. She shares common supervision with employees in the unit and the employee who covers her work is a storeroom associate and member of the unit.[11] Therefore, I find that the Clerk General classification should be included in the nonprofessional unit.

Accordingly, I conclude that Clerk General Wanda Singletary must be included in the unit and her ballot be opened and counted.

[11] Although Farrar's eligibility is disputed, as detailed below, I find that Petitioner failed to meet its burden to establish that he is a supervisor as defined in the Act.

2. Clerk Radiology: Cheryl Hines

The Employer contends that the classification of Clerk Radiology must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

The Hospital employs one radiology clerk, Cheryl Hines, who works in the radiology file room on the ground floor of the Hospital. She interacts with patients who come to her to retrieve copies of their medical files. Hines is also responsible for making sure that patients' medical imaging is properly entered into the Employer's archiving system. She walks throughout the various modalities departments—CAT scan, x-ray, ultrasound, Nuclear Medicine, and mammography—and retrieves requisitions ordering patient imaging tests. She returns with the requisitions to the file room and ensures that the images that come in from the modalities are transferred into the archiving system and the patients' electronic medical records. She also responds to physicians' requests for copies of images and mails them out. Two of the radiology aides performs Hines' job duties when Hines is unavailable or requires assistance.

Radiology clerks are not required to have any specialized training, certifications, or licensures. Colleen Nale, as detailed above, supervises the radiology clerks, aides, technologists, and students, among other employees. Hines wears black scrubs, like all other Radiology Department employees. There is no record evidence regarding the pay grade of the radiology clerk classification or Hines' pay rate.[12]

As detailed by the Board in *William W. Backus Hospital*, supra at 415:

> Hospital clericals are those clericals who work side by side with service and maintenance employees in various departments throughout the hospital, performing clerical functions. Their work and working conditions are materially related to unit work; they have continual contact with [nonprofessional] unit employees and are generally supervised by the same supervisors that supervise unit employees.

The Board has also found that clericals who work with patient medical records, work near other nonprofessional employees, have frequent contact with employees who provide patient care, and are isolated from other BOCs share a community of interest with employees in the nonprofessional unit. *Rhode Island Hospital*, supra at 362-363. Here, Hines shares common supervision with other employees in the nonprofessional unit and the Radiology Clerk classification has frequent temporary interchange with the Radiology Aides—a unit classification. In addition, Hines works with patients' records and has daily interaction with patients who come to her to retrieve their files. Therefore, the classification of Clerk Radiology belongs in the nonprofessional unit.

Accordingly, I conclude that the Clerk Radiology Cheryl Hines must be included in the unit and that her ballot be opened and counted.

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[12] The Employer provided wage rate and pay grade information for Food Service Associate Michelle Hines, instead of Cheryl Hines.

3. Discharge Planning Assistant: Danyel Caliman-Allen and Mitsuko Powell

The Employer contends that the classification of Discharge Planning Assistant must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

The Hospital employs two discharge planning assistants (DPAs), Danyel Caliman-Allen and Mitsuko Powell, in the Care Coordination Department on the seventh floor of the Hospital. The Care Coordination Department is responsible from transitioning patients out of hospital care. DPAs arrange for transportation for patients being discharged from the Hospital; arrange for post-discharge care; order "durable medical equipment," such as walkers, canes, nebulizers, and oxygen tanks that patients need post-discharge; and document all this information in the patients' medical records. In addition, DPAs go to patient care areas to meet with patients in their rooms to read and explain to them the Important Medicare Message, which is a federal regulatory requirement, and DPAs must secure a patient's signature on a form confirming receipt of the information. According to Caliman-Allen, she spends over half her work day in patient care areas meeting with patients. She testified that these meeting with patients each last 30 to 45 minutes and that she sees anywhere from five to eight patients per day.

DPAs are not required to hold any specialized education, training, or licensure. They are classified under the F05 pay scale and earn between $18.65 and $20.62 per hour. They work Monday through Friday from 8:30 a.m. to 5:00 p.m. They wear business casual attire, but also wear a lab coat when they go into patient areas. The Utilization Management Assistant and an administrative assistant fill in for the DPAs when one of the DPAs is unavailable.

Director of Care Coordination Anne Konowall is the head of the Care Coordination Department. She supervises the DPAs, social workers, care transition nurses in the medical/surgical units and in the Emergency Department, utilization review nurses, an administrative assistant, and the utilization management assistant.

The clerical work of BOCs is generally limited to finance, billing, and insurance, and is not directly involved in patient care or with physical or environmental health. *Lifeline Mobile Medics, Inc.*, 308 NLRB 1068 (1992). The work of the DPAs here is clearly distinguishable from the work of BOCs. Caliman-Allen and Powell spend most of their time working and communicating with patients in order to ensure that they successfully transition from Hospital care to the next stage in the care continuum. Far from being geographically isolated, DPAs also spend the majority of their time in patient care areas, surrounded by unit employees who provide patient care. The DPAs are also supervised by a manager with authority over social workers and nurses that work directly with patients. Finally, they fall into the same pay grade as Emergency Room Technicians, who are undisputed members of the unit. Therefore, I find that the classification of DPA should be included in the nonprofessional unit.

Accordingly, I conclude that DPAs Danyel Caliman-Allen and Mitsuko Powell must be included in the unit and their ballots be opened and counted.

4. Utilization Management Assistant: Emily Tilghman

The Employer contends that the classification of Utilization Management Assistant must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

Emily Tilghman is employed as the Employer's sole Utilization Management Assistant. She works in the Utilization Management Department on the seventh floor of the Hospital across the hall from the DPAs' office. Tilghman works in an office with three utilization review nurses and a physician advisor. Tilghman described her role as serving as a liaison between an insurance company's physician advisor and the Employer's physician advisor. Physician advisors are responsible for determining whether medical procedures and services should be covered by insurance. Tilghman's role is essentially to convey to the insurer's physician advisor the Employer's position as to why it should be paid for the performance of medical procedures and services. If the physician advisors are unable to come to an agreement, she sends the matter to the Employer's Appeals Unit. Tilghman also runs reports on Medicare in-patient hospital stays to insure that all documentation has been completed in the event the files are audited.

According to Konowall, Tilghman performs DPA duties about twice per month. Tilghman also occasionally answers DPA-related telephone calls. Tilghman wears business casual attire to work and normally works from 7:00 a.m. to 3:30 p.m. The Utilization Management Assistant position is classified at F05 and Tilghman earns $21.29 per hour.

The classification of Utilization Management Assistant is dedicated almost exclusively to dealing with insurance and insurance-related matters. The Board has historically included insurance clerks in BOC units. See *Trumbull Memorial Hospital*, supra at 797; *Valley Hospital, Ltd.*, 220 NLRB 1339, 1343 (1975); *Seton Medical Center*, 221 NLRB 120 (1975). Although Tilghman sometimes performs DPA duties, a unit position, she is physically separated from them and works in an office with other employees who perform to insurance-related functions. Therefore, I find that the classification of Utilization Management Assistant should not be included in the nonprofessional unit because it is a BOC position

Accordingly, I conclude that Utilization Management Assistant Emily Tilghman must be excluded from the unit and he ballot not be opened and counted.

5. Health Information Management Liaison: Tracy Luong

The Employer contends that the classification of Health Information Liaison must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

Tracy Luong is the Employer's only health information liaison. She works in the Health Information Management Department (HIM) on the first floor of the Hospital, next to the Infusion Center and the Coding Department. The term HIM was formerly known as the Medical Records Department. The only other employees who work in HIM are three health information management clerks, their supervisor HIM Supervisor Tahara Peterson, and a third-party vendor. Luong is responsible for ensuring that medical records are complete. When she notices that a medical record is not complete, she contacts the physician responsible for the record and asks

him or her to enter the missing information. The Employer also has a procedure for suspending physicians that fail to complete their medical records. Luong is responsible for identifying physicians who must be suspended under this policy. She is also responsible for ensuring that physicians sign death certificates and for sending death certificates to funeral homes. Finally, she is responsible for ensuring that organ donation forms are signed and completed. Performing these tasks entails accessing electronic medical records on a computer and frequent contact with physicians, residents, medical students, and nurses.

The health information liaison is not required to hold any specialized education, training, or licensure. Luong wears business casual attire to work. There is regular temporary interchange between the health information liaison and the health information management clerks. Luong spends 30% to 40% of her time performing the job duties of the health information management clerks. The health information liaison classification falls into the F05 pay grade and Luong earns $17.51 per hour.

The Board has found that medical record clerical employees are nonprofessional employees. *Sisters of St. Joseph of Peace,* 217 NLRB 797, 798 (1975); *Gnaden Huetten Memorial Hospital,* 219 NLRB 235, 236-7 (1975); *Alexian Bros. Hospital,* 219 NLRB 1122, 1123 (1975); *St. Claude General Hospital,* 219 NLRB 991, 992 (1975); *William W. Backus Hospital,* supra at 415 (1975); *Valley Hospital, Ltd.,* 220 NLRB 1339, 1343 (1975); *Central General Hospital,* 223 NLRB 110, 111 (1976); *Baptist Memorial Hospital,* 225 NLRB 1165, 1168 (1975); *Morristown-Hamblen Hospital Assoc.,* 226 NLRB 76, 79 (1976); *Duke University,* 226 NLRB 470, 471 (1976). Here, the evidence shows that the classification of Health Information Liaison is a clerical position and should be included in a unit of nonprofessional employees. The duties of the Health Information Liaison are limited to ensuring the completeness of medical records. Luong performs routine job functions and is not highly skilled or trained. While Luong does not work within a patient care area, Peterson credibly testified that Luong has daily interactions with patient care employees outside HIM. In addition, HIM employees' clerical duties are unrelated to patient billing or other functions traditionally associated with BOCs.

Petitioner cites *Seton Medical Center*, 221 NLRB 120 (1975) in support of its position that the HIM clericals belong in a unit of BOCs. However, in that case, the Board found that medical records clerks belonged in a BOC unit because they worked side-by-side and were closely integrated with another BOC classification. Id at 122, n.21. That is not the case here. Here, there is no evidence that HIM employees have contact with BOCs and they do not work with other BOC classifications. On the contrary, HIM employees work in the Hospital and have frequent contact with employees who provide patient care. Therefore, I find that the classification of Health Information Liaison should be included in the nonprofessional unit.

Accordingly, I conclude that Health Information Liaison Tracy Luong must be included in the unit and that her ballot be opened and counted.

6. *Health Information Management Clerk: Andrea Alston, Ann Aytch, and Terri Robinson*

The Employer contends that the classification of Health Information Management Clerk must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

There are three health information management clerks—Andrea Alston, Ann Aytch, and Terri Robinson. They work with Luong in HIM. They are responsible for going to the various floors of the Hospital to collect medical records and bring them back to HIM. They then process the records and prepare them to be sent to the Employer's scanning contractor, Alpha. Like the health information liaison, they also review medical records for completeness. However, instead of directly contacting physicians in order to prompt them to complete their records, the HIM clerks make notes on the electronic medical record that notify physicians that there is information missing from the record. The HIM clerks also collect death charts from the Hospital and Emergency Room. According to Peterson, HIM clerks spend about two hours per day collecting medical records from throughout the Hospital. The majority of their time is spent in HIM.

HIM clerks wear business casual attire and work two overlapping shifts between 6:00 a.m. and 7:00 p.m. Prior to working as a HIM clerk, Anne Aytch was employed by the Employer as a unit clerk and as a nursing assistant. However, she has worked as an HIM clerk for the past 28 years. HIM clerks are employed in the F03 pay grade and earn between $17.39 and $17.48 per hour.

I find, for the same reasons as set forth for the Health Information Liaison classification, that HIM clerks are nonprofessional employees. Therefore, the classification of HIM Clerk should be included in the nonprofessional unit.

Accordingly, I conclude that HIM Clerks Andrea Alston, Anne Aytch, and Terri Robinson must be included in the unit and that their ballots be opened and counted.

7. *Patient Access Registration Representative: Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene K. Smith, and Sheena Stone*

The Employer contends that the classification of Patient Access Registration Representative must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

The Hospital employs 21 patient access registration representatives (PARRs) stationed in three discrete work stations throughout the Hospital. All of the PARRs register patients upon their arrival to the hospital. They ask for key demographic information, the reason for their visit, and insurance information, and they enter this information into a computer at their work station. They also carry mobile computers for when they have to physically go to a patient to register them. According to their job evaluation and position description, PARRs also have significant insurance- and billing-related tasks. For example, PARRs are evaluated on the following parameters, including a section entirely devoted to insurance-related tasks:

Communicates to the patient the patient's financial responsibilities. Requests co-pay or deductible when applicable and provides receipt to patient.

Verifies and obtains insurance benefits and required referrals and pre-certifications for patients that have not been pre-registered before the patient is treated, immediately after the patient arrives, or, if necessary, within one business day of the patient's treatment.

Follows departmental policies and procedures for completing the patient's record, including copying Insurance cards (or indicating in system when insurance card is unavailable), entering authorization/pre-certification/referral numbers, and other information as necessary.

Verifies insurance coverage through automated eligibility system. Uses insurance verification systems to verify eligibility and upfront collection amounts.

Communicates and explains insurance benefits and coverage information to patients.

Reviews patient accounts for financial status to identify nonfunded patients and ensure referral to and appointment with a Financial Counselor. Notifies the Financial Counselor of all referrals.

Collects monies for self-payment rates and documents system appropriately.

Utilizes appropriate systems including Patient Accounting to research the patient's account history.

Contacts the patient's insurance carrier to obtain benefits within 24 hours of the service date and determine if pre-certification or referral from Primary Care Physician is required.

Refers inpatient accounts to "On Coordination" for clinical justification for pre-certification as necessary.

Maintains contact with physician practice offices to process insurance eligibility and pre-certifications.

Monitors insurance coverage to ensure patients are "capitated" to hospital.

Assists with insurance updates and problems, including reports and specific accounts identified by the billing office.

This is not an exhaustive list of all the metrics on which the Employer evaluates PARRs. It instead represents all of the PARRs' insurance- and billing-related duties. PARRs are also evaluated on factors related to customer service, problem solving, and their ability to identify patients with urgent medical needs. According to the PARRs' job description and performance

evaluation documents, the Employer prefers applicants for the position with customer service experience, knowledge of medical terminology, and experience using patient registration and insurance systems.

One of the PARR work stations is located in the Emergency Department on the ground floor of the Hospital. The PARRs work behind a glass window and register patients arriving in the Emergency Room. After they register a patient, they approach the triage nurse to let them know the patient has arrived. Nurses also ask PARRs specific information about an arriving patient, such as their name and whether they have been registered. The other two PARR work stations are located on the ground and first floors of the Hospital, not in patient care areas. These work stations are not enclosed by glass. There is no evidence that PARRs working in the work stations outside the Emergency Department have significant contact with employees in the nonprofessional unit. Twelve of the PARRs work in the Emergency Department, while the remaining nine PARRs work in one of the other two work stations.

Three Patient Access Supervisors are responsible for each work station. PARRs and their supervisors report to Director of Patient Access Mary Kelso. They have no common supervision with other classification in the nonprofessional unit. They wear navy blue pants, a white oxford shirt, and an ascot. They work three shifts, including an overnight shift. PARRs are not required to have specialized education, training, or licensures. They are employed at the F04 pay grade and earn between $15.59 and $20.27 per hour.

Depending on the circumstances of each case, the Board has placed admitting clerks in both nonprofessional and BOC units. *St. Francis Hospital*, 219 NLRB 963, 964 (1975) (BOC); *St. Claude General Hospital*, 219 NLRB 991 (1975) (BOC); *St. Elizabeth's Hospital of Boston*, supra (BOC); *Valley Hospital, Ltd.*, 220 NLRB 1339, 1343 (1975) (BOC); *Seton Medical Center*, 221 NLRB 120 (1975) (BOC); *Medical Arts Hospital of Houston, Inc.*, 221 NLRB 1017 (1975) (BOC); *St. Luke's Episcopal Hospital*, 222 NLRB 674, 676 (1976) (BOC); *William W. Backus Hospital*, 220 NLRB 414, 415-416 (1975) (nonprofessional); *Jewish Hospital of Cincinnati*, 223 NLRB 614, 621 (1976) (nonprofessional). In finding that admitting clerks belonged in a nonprofessional unit, the Board in *Jewish Hospital of Cincinnati* relied on its findings that the admitting clerks escorted patients to their rooms, had extensive contact with nonprofessional employees, and played no role related to patients' financial or insurance arrangements. Id. That is not the case here. Nine out of the 21 PARRs do not work in patient care areas. They are also separately supervised at the first and second levels of supervision and have no interchange with nonprofessional employees. Moreover, their significant insurance- and billing-related duties mean they perform many of the same tasks traditionally associated with the business office of hospitals. Therefore, I find that the PARRs should not be included in the nonprofessional unit because they are BOCs.

Accordingly, I conclude that PARRs Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene K. Smith, and Sheena Stone must be excluded from the unit and their ballots not be opened and counted.

8. QR Data Specialist: Decis Gordon

The Employer contends that the classification of QR Data Specialist must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

Decis Gordon is the Employer's only quality review data specialist (QR data specialist). She works in Quality Management Department (QMD) on the third floor of the Hospital and is supervised by Director of Quality Maurita Marhalik, who also supervises three quality review nurses in QMD. Marhalik is a registered nurse by training. Gordon's primary job function is to review medical records against pre-determined quality metrics set by the Centers for Medicare and Medicaid. She then notes in the Employer's quality review software system whether or not the medical record contains the information required by the quality metrics; this is also referred to as abstracting data, or data collection. For example, the quality metrics require that patients with a smoking history be offered access to smoking cessation services. Gordon checks the medical record to make sure those services were offered. If she finds that a record is missing information required by the quality metrics, Gordon contacts the nurse or nurse manager responsible for completing the information and asks them to update the medical record. Gordon testified that she contacts nurses in the course of her job duties approximately two-to-three times per month. To the extent that Marhalik's testimony contradicts Gordon's testimony, I credit Gordon.

According to the QR Data Specialist job description and performance evaluation, the Employer requires employees in this position to have an Associate Degree in Management Information Technology or 3 years of equivalent experience. Gordon wears business casual attire to work, but usually puts on a lab coat when she goes to patient care areas. There is no interchange between Gordon and employees outside QMD. She works Monday through Friday from 9:00 a.m. to 5:00 p.m. and earns $28.14 per hour. The QR Data Specialist is classified at the G07 pay grade.

The Board has described BOCs job duties as follows: "Business office clericals are primarily responsible for a hospital's financial and billing practices, and deal with Medicare, [diagnostics related groups], varying price schedules, multiplicity of insurance types, and new reimbursement systems." 53 FR at 33924; 284 NLRB at 1562. However, in certain circumstances, employees who work with medical records have also been found to be BOCs. See *Seton Medical Center*, supra at 122 n. 21; *St. Luke's Episcopal Hospital*, supra at 677 (excluding medical records clerks from service and maintenance unit). In *Seton Medical Center*, the Board held that the isolation and lack of contact between the medical records clerks in that case and patient care employees was such that the medical records clerks did not share a sufficient community of interest with employees nonprofessional unit. Id. Here, Gordon's contact with personnel outside QMD is extremely limited. According to her testimony, Gordon only calls nurses two-to-three times a month. Moreover, Gordon bears many of the hallmarks of BOCs. In the Healthcare Rule, the Board noted that "[BOCs] generally are required to have a higher level of education than [nonprofessional] employees" and that "[s]alaries paid to business office clericals reflect their higher skills and training." 53 FR at 33924; 284 NLRB at 1562. Here, the QR Data Specialist is required to have an Associate Degree in Management Information Technology and has a significantly higher pay grade and pay rate than any employee any of the

disputed classifications involved in this case. For these reasons, I find that the classification of QR Data Specialist should not be included in the nonprofessional unit because it is a BOC classification.

Accordingly, I conclude that QR Data Specialist Decis Gordon must be excluded from the unit and her ballot not be opened and counted.

9. Staffing Specialist: Mavis Duvall and Stacy A. Jordan

The Employer contends that the classification of Staffing Specialist must be included in the nonprofessional unit. Petitioner argues that this is a BOC classification, which is excluded from the unit.

The Hospital employs three staffing specialists, but only two of them cast ballots in the election—Mavis Duvall and Stacy A. Jordan, both under challenge. The position description for staffing specialists also refers to them as staffing coordinators. They work in the fourth floor staffing office, next to Nursing Administration and down the hall from the Endoscopy Department. Staffing specialists coordinate per-diem and staffing schedules. When they receive the nurses' schedules, staffing specialists enter the information into the computer, review staffing levels and make adjustments to the schedule based on staffing needs or changes that occur on any given day. According to the position description, they also cancel employee shifts when necessary. Staffing specialists also assist with payroll by making sure that the hours entered into the computer are properly coded. Beyond that, their performance standards rate them on their ability to "investigate and correct personnel payroll problems" and their familiarity with staffing and payroll software. Throughout the course of the day, they have frequent contact with nurses, unit facilitators, patient care assistants, and transporters. Employees in these last three classifications are part of the nonprofessional unit.

According to their position description and performance evaluation, staffing specialists must have five years of secretarial experience. However, according to Director of Nursing Linda Fleming, this requirement is not enforced. The position description also states that an Associate Degree is preferred. They wear business casual attire to work. Staffing specialists are employed at the F06 pay grade and earn between $19.26 and $21.95 per hour.

Prior to becoming a staffing associate, Jordan was employed as a unit clerk. Nadira Oglesby, the staffing specialist who did not cast a ballot, was a unit facilitator prior to transferring to the Staffing Specialist classification. Rhonda Taylor is a per diem employee who works as both a unit facilitator and a staffing specialist. She splits her time evenly between both positions. The classification of Unit Facilitator was eligible to vote in the February 7, 2017 election.

The Board has found employees to be BOCs even in cases where they are integrated into patient care departments and share common supervision with nonprofessional employees. *Medical Arts Hospital of Houston*, 221 NLRB 1017, 1018 (1975) (nursing office secretary responsible for typing, posting, and arranging duty time for employees held BOC, despite placement in nursing department and history of close contact with unit employees). In *Medical Arts Hospital of Houston*, the Board prioritized a position's job functions over their placement in

the organizational chart in measuring their community of interest with the bargaining unit. Id. Here, beyond their intimate role related to scheduling, staffing specialists are familiar with the Employer's payroll software and can correct payroll problems. Clerical employees who perform payroll functions have historically been found to be BOCs. *Trumbull Memorial Hospital*, supra at 797; *St. Luke's Episcopal Hospital*, supra at 676 (1976). While staffing specialists have close and frequent contact with nonprofessional employees and share common supervision, their job functions and skills are more closely related to those of BOCs. Notably, they review and change staffing levels, and can make coding changes in the payroll system. Therefore, I find that the classification of Staffing Specialist should not be included in the nonprofessional bargaining unit because it is a BOC classification.

Accordingly, I conclude Staffing Specialists Mavis Duvall and Stacy A. Jordan must be excluded from the unit and their ballot not be opened and counted.

D. The Not on List Challenge: Elaine Creamer

Elaine Creamer's name did not appear on the voter list and she was thus challenged by the Board Agents as "not on list." Petitioner contends that Elaine Creamer was employed as an Emergency Room Tech, a classification in the stipulated unit, and thus is eligible to vote. The Employer argues that Creamer was employed as a Paramedic, a technical classification, and thus is ineligible to vote.

Emergency Department Nurse Manager Carmen Williams testified that she was Elaine Creamer's direct supervisor. According to Williams, the Hospital employed Creamer as a paramedic at the time of the election. Although the Employer used an Emergency Room Technician evaluation form for Creamer's evaluation, Williams made handwritten notations in the document describing Creamer as a medic. On February 23, 2017, Creamer resigned from her employment after losing her paramedic certification. This certification was a condition of her employment and must be renewed every two years.

Creamer wore the same uniform as other Emergency Room technicians. Creamer also performed job functions not performed by Emergency Room technicians. For example, Creamer could decide whether to oxygenate a patient and whether to start an IV and push medication to a patient. She made these decisions without prior consultation with other medical professionals and did so by relying on her experience and training. Emergency Room technicians do not make decisions about when to start an IV or give oxygen to a patient. The only other employees who can start IVs are physicians and nurses.

Creamer was employed in the G08 pay grade and earned $22.82 per hour. Emergency Room technicians are employed in the F05 pay grade.

Petitioner contends that regardless of whether Creamer was a medic, she was in fact employed as an Emergency Room technician. I disagree. The Employer presented evidence showing that Creamer's job duties and terms and conditions of employment were materially different from those of Emergency Room technicians. For example, Creamer's pay grade was significantly higher that the Emergency Room technicians, she was required to have a certification as a paramedic, and performed technical job duties that require independent

judgment. I find that the Employer met its burden to establish that Elaine Creamer was not employed in a classification eligible to vote in the election because the classification of Paramedic is a technical classification.

Accordingly, I conclude that Paramedic Elaine Creamer must be excluded from the unit and her ballot not be opened and counted.

E. Storeroom Lead Louis Farrar Jr.

The Employer contends that Storeroom Lead Louis Farrar Jr. is a nonprofessional employee and eligible to vote. Petitioner argues that Farrar is a supervisor as defined in Section 2(11) of the Act and must be excluded from the nonprofessional unit.

Farrar is the Employer's only Storeroom Lead. He works in the storeroom in the basement of the Hospital with all five storeroom associates. The storeroom associates were eligible to vote in the election. All the storeroom employees are supervised by Manager of Supply Chain Joseph Short. Short also has responsibilities at Mercy Fitzgerald Hospital and splits his time evenly between both hospitals. The storeroom is tasked with handling office supplies and receiving deliveries and medical supplies. According to Short, the storeroom keeps about 860 different items stocked on the shelves. When a hospital unit needs something from the storeroom, they call down to order it. Storeroom employees work from 7:30 a.m. to 4:00 p.m. Only one employee works in the storeroom during the weekends.

Farrar is responsible for keeping the storeroom stocked at proper levels. He places orders for supplies in quantities determined by Short and conducts daily inventory counts. Farrar also performs all the duties formerly performed by the storeroom clerk, such as answering the telephone and filing paperwork. Short testified that Farrar acts as lead employee in that he is the most knowledgeable storeroom associate and is capable of performing all the different job functions of the associates. Farrar also serves as a conduit for information and relays directives from Short to the storeroom associates.

Storeroom associates' job duties do not change from day-to-day and they each perform distinct tasks throughout the storeroom. They all work independently without the need to be told what to do. Storeroom Associate Leon Morton is responsible for receiving and logging all supplies, and reconciling them in the computer. Storeroom Associate Glen Davis stocks IVs in the nursing units on Mondays, Wednesdays, and Fridays. On Tuesdays and Thursdays, he performs the work of the employee scheduled to work on the weekend. Storeroom Associate Victor Moreno makes bulk supply deliveries to the various departments of the Hospital. Storeroom Associate Maurice Hosendorf is responsible for the supplies that go to the Emergency Department, the northwest wing of the fifth floor, and the intensive care unit. Finally, Storeroom Associate Randolph Brutten is responsible for the supplies that go to the telemetry unit and the northwest and center wings of the sixth floor. The associates work independently and do not need to be directed in their work. The Employer has never disciplined Farrar based on the poor work performance of another employee. If a Hospital unit calls Farrar to order supplies, Farrar sends the employee responsible for that particular area to deliver the supplies.

On occasion, employees approach Farrar and let him know that they are leaving early. However, there have been times when Farrar has asked employees to stay and help with a major issue. According to Short, Farrar can allow employees to leave early if their work is complete. However, Farrar cannot instruct employees to leave early or ask them to stay and work overtime. If an employee reports a grievance to Farrar, he has to relay it to Short or Short's supervisor. He cannot adjust grievances.

Farrar also monitors the work of new probationary employees to make sure their performance is satisfactory and to train them. Morton is the storeroom's newest employee. Short decided to retain him past his probationary period based on the work Short saw Morton perform. Short testified that Farrar never recommended the hiring of an employee.

Farrar reports employee misconduct and poor performance to Short, but does not recommend or impose discipline.

The term "supervisor" is defined in Section 2(11) of the Act as:

> [A]ny individual having authority, in the interest of the Employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Pursuant to this definition, individuals are statutory supervisors if (1) they hold the authority to engage in any 1 of the 12 supervisory functions listed in Section 2(11); (2) their "exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment"; and (3) their authority is held "in the interest of the employer." *NLRB v. Kentucky River Community Care,* 532 U.S. 706, 713 (2001). Supervisory status may be shown if the putative supervisor has the authority either to perform a supervisory function or to effectively recommend the same. In determining supervisory status, the Board has instructed that "the burden of proving supervisory status rests on the party asserting that such status exists." *Dean & Deluca New York, Inc.,* 338 NLRB 1046, 1047 (2003); accord *Kentucky River,* 532 U.S. at 711-12 (deferring to existing Board precedent allocating burden of proof to party asserting that supervisory status exists). The party seeking to prove supervisory status must demonstrate it by a preponderance of the evidence. *Dean & Deluca,* 338 NLRB at 1047; *Bethany Medical Center,* 328 NLRB 1094, 1103 (1999).

Petitioner contends that Farrar has the authority to assign work based on the fact that he can send employees to deliver supplies in the Hospital and that Farrar has authority allow people to leave work early. Petitioner does not contend that Farrar possesses any additional supervisory indicia. However, these alleged supervisory duties do not invoke the "assignment" indicium of supervisory status because they do not involve the designation of significant overall duties to an employee. *Oakwood Healthcare, Inc.*, 348 NLRB 686, 689 (2006). Instead, the evidence here more closely resembles the "responsibly to direct" indicium. For a putative supervisor to meet that definition, the Employer must show that the direction of work is both responsible and carried out with independent judgment. Id at 691. This involves a showing of accountability, so that it

must be shown that "the employer delegated to the putative supervisor the authority to direct the work and the authority to take corrective action, if necessary" and that there is a "prospect of adverse consequences for the putative supervisor arising from his/her direction of employees." Id at 691-692. However, there is no evidence that Farrar uses independent judgment in directing employees to perform tasks. On the contrary, the evidence shows a highly independent workforce with clearly divided lines of responsibility, such that Farrar does not use independent judgment and simply sends employees to deliver supplies in their areas of responsibility. In addition, while storeroom associates notify Farrar if they are leaving early, I do not find that Farrar had the discretion to decide whether to allow employees to leave early. Therefore, Petitioner has failed to meet its burden to establish that Farrar is a supervisor as defined in Section 2(11) of the Act.

Accordingly, I conclude that Storeroom Lead Louis Farrar Jr. must be included in the unit and his ballot be opened and counted.

CONCLUSION

Based on the foregoing, I recommend that the challenges to the ballots of Charmaine Boyer, Amanda Moon, Dennis Richardson, Maxine Spivey, Wanda Singletary, Cheryl Hines, Danyel Caliman-Allen, Mitsuko Powell, Pamela Johnson, Linda M. Bethea, Porsche Ray, Tracy Luong, Andrea Alston, Ann Aytch, Terri Robinson, Denise Colon, Chakana Conwell, David Dao, Diana Guzman, Hwee Jung Kim, Inae Lee, Kun Rhee, Sunish Shah, Dorothy G. Dixon, Celestine Karnga, Marquelda Martinez, Jospehine T. Sebastian, Marys S. Thomas, Sherin Joseph, Erin Martin, Decis Gordon, Louis Farrar Jr., Maxine Clahar, Jasmine Coleman, Lavatrice King, Catherine Harrity, Mary Johnston, Dorothy Nyame, and Jennifer Myuers be overruled and that their ballots be opened and counted.

I recommend further that the challenges to the ballots of Lenora Drummond, Tee Dubose, Tracy Ellerbe, Pamelia Isham, Crystina McDonald, Thomas Wells, Sherri Woodley, Nicole Baldwin, Dana Berry, Vena Brown, Bernadette Camp, Lisa Dungee, Yvette English, Siedah Harris, Bashirah Hedgepeth, Iesha King, Kafiah Mallory, Kenneth M. Philson, Rhonda Prioleau, Aricka Ragland, Stephanie Ray, Shirley Registre, Ernestine Roberts, Starshema Robinson, Donna Saunders, Shelene K. Smith, Sheena Stone, Mavis Duvall, Stacy A. Jordan, Emily Tilghman, Blasé Canterbury, and Elaine Creamer be sustained and that their ballots not be opened and counted, and that a revised Tally of Ballots issue.

APPEAL PROCEDURE

Pursuant to Section 102.69(c)(1)(iii) of the Board's Rules and Regulations, any party may file exceptions to this Report, with a supporting brief if desired, with the Regional Director of Region 4 by Thursday, May 11, 2017, A copy of such exceptions, together with a copy of any brief filed, shall immediately be served on the other parties and a statement of service filed with the Regional Director.

Exceptions may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the exceptions

should be addressed to the Regional Director, National Labor Relations Board, 615 Chestnut Street, Suite 710, Philadelphia, PA 19106.

Pursuant to Sections 102.111 – 102.114 of the Board's Rules, exceptions and any supporting brief must be received by the Regional Director by close of business at 5:00 p.m. on the due date. If E-Filed, it will be considered timely if the transmission of the entire document through the Agency's website is accomplished by no later than 11:59 p.m. Eastern Time on the due date.

Within 7 days from the last date on which exceptions and any supporting brief may be filed, or such further time as the Regional Director may allow, a party opposing the exceptions may file an answering brief with the Regional Director. An original and one copy shall be submitted. A copy of such answering brief shall immediately be served on the other parties and a statement of service filed with the Regional Director.

Dated: April 27, 2017

/s/ David G. Rodriguez
DAVID G. RODRIGUEZ
Hearing Officer
National Labor Relations Board
Region 4
615 Chestnut Street, 7th Floor
Philadelphia, PA 19106

EXHIBIT C

Washington Headquarters 8125

Colleague

Mercy Health System
A member of Catholic Health East

Position Description/Evaluation Tool and Development Plan Document

ENTERED

Job Specific Summary

Position Title
Patient Access Representative/Lead Patient Access Representative

Immediate Supervisor Title
Supervisor Patient Access Representatives

Operating Unit
MERCY PHILADELPHIA10

Department
Patient Access

FLSA
Salary Grade
Position Number
(to be completed by Compensation)

Date
10/31/2016

Work Hours
Full Time - 40 Hours

Summary of Accountabilities (please attach org. chart)
The primary function of the position is to greet, pre-register and/or register patients in a courteous and professional manner, verify insurance benefits and check for the necessity of pre-certification, authorization and referral. Perform medical necessity checks where needed. Secure patient signatures for required hospital forms and collection of patient's financial responsibility when required. The position is also responsible for providing professional, quality customer service, timely resolution to customer problems, and coordination of services to all customers. The position functions to communicate revenue cycle related issues to patients, physicians, physician office staff and other hospital colleagues. This position rotates into various areas of patient access and may work a variety of shifts.

Lead Responsibilities:
Colleagues assigned as Lead Patient Access Representatives are the primary subject matter expert, super user, trouble shooter, and problem solver for the staff in the areas to which they are assigned. They serve as a preceptor to new staff members as assigned, and mentor and train colleagues as needed. In the absence of Patient Access Management they serve as the "go to person" for the areas to which they are assigned.

Machines, Tools & Equipment
Extensive use of computer equipment
Office equipment

Physical Work Requirements
Ability to see and hear within normal limits with or without use of corrective devices
Motor dexterity of hands and fingers
Ability to utilize proper body mechanics
Ability to communicate in the English language orally and in writing
Ability to be mobile

	Frequency				Frequency				Frequency				Frequency			
	Rare 0-10%				Occasional 11-34%				Frequent 34-66%				Continuous >67%			
Weight	1-10 Lbs	11-25 Lbs	26-50 Lbs	50+ Lbs	1-10 Lbs	11-25 Lbs	26-50 Lbs	50+ Lbs	1-10 Lbs	11-25 Lbs	26-50 Lbs	50+ Lbs	10-20 Lbs	11-25 Lbs	16-50 Lbs	50+ Lbs
Lifting	☒	☐	☐	☐	☐	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Push/Pull	☒	☐	☐	☐	☐	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Carrying	☐	☒	☐	☐	☐	☐	☐	☐	☒	☐	☐	☐	☐	☐	☐	☐
Sitting	☐				☐				☒				☐			
Standing	☐				☒				☐				☐			
Bending	☐				☒				☐				☐			
Dwelling	☐				☒				☐				☐			
Climbing	☒				☐				☐				☐			
Walking	☐				☐				☒				☐			
Reaching	☐				☐				☒				☐			

Minimum Certifications, Registry or License Requirements:

Minimum Education and Experience Requirements:
Minimum Education and Experience Requirements for Patient Access Representative:
Education:
Education equivalent to the completion of high school;
AND

EXHIBIT
tabbies
E-12

Experience:
Three years Customer Service experience in a healthcare environment preferred.
OR
Education:
Associate's degree.

- Previous experience using a computerized medical registration system preferred
- Previous medical terminology and insurance knowledge preferred
- Previous experience with insurance eligibility systems including Medicaid, Medicare, and other commercial and private payor eligibility systems preferred

Minimum Education and Experience Requirements for Lead Patient Access Representative:
Education:
Education equivalent to the completion of high school;
AND
Experience:
Three years Customer Service experience in a healthcare environment, which includes one year as a Patient Service Representative.
OR
Education:
Associate's degree.
AND
One year as a Patient Service Representative to include:
- Experience using a computerized medical registration system
- Medical terminology and insurance knowledge
- Experience with insurance eligibility systems including Medicaid, Medicare, and other commercial and private payor eligibility systems

Knowledge, Skills, and Abilities Required:
Ability to:
- Learn medical terminology
- Read and write the English language following the rules of grammar and spelling
- Work in a fast-paced environment, multi-task and prioritize work appropriately to meet deadlines
- Work independently, and be self-directed
- Demonstrate problem solving skills
- Use MS Office applications and navigate the Internet
- Meet the MHS Standards of Behavior
- Adapt to changes in the work environment
- Meet shift expectations
- Handle challenging customers, physician office personnel, and internal staff
- Work under stressful situations; work independently, be self-directed
- Relate effectively with individuals that have widely diversified backgrounds
- Rotate into different departments for patient access
- Learn and use computer applications for:
  - MA eligibility
  - Navinet-BC/Keystone eligibility and benefits
  - Internet insurance eligibility/referrals/authorizations
  - Medicare Medical Necessity Checker
  - Registration Accuracy System
  - On-line Co-Payment System
- Use and troubleshoot printer, phone and fax machine

Position Description Approval:

Name here — Title here

Name — Title

CHRO

VP

Colleague Signature and Date (Upon Hire)

Mercy Health System
A member of Catholic Health East

Colleague
Description/Evaluation Tool and Development Plan Document

Scale:	1=Well below standards, doesn't meet 1.5 2=Below standards, needs improvement 2.5 3=Meets standards	3.5 4=Exceeds standards 4.5 5=Far Exceeds Standards/ Significant Contributor

Job Specific Accountabilities

Major accountabilities	Performance Measures
Adheres to Corporate Compliance Guidelines 1. Understands and abides by HIPAA privacy and security laws and regulations. 2. Observes all applicable federal, state, and local laws and regulations. 3. Observes all Mercy Health System and applicable subsidiary policies and procedures including the Code of Conduct. 4. Observes Mercy Health System Corporate Compliance policy by reporting any concerns about compliance or business practices to his or her immediate supervisor, appropriate management, Corporate Compliance Officer, or Compliance Hotline. 5. Completes compliance related education	3
Demonstrates knowledge and compliance with the Hospital Safety and Infection Control policies as required by OSHA and the Patient Safety Program. 1. Consistently demonstrates knowledge of universal precautions, isolation procedures, and other infection control measures. 2. Provides a safe environment for all patients, employees, and visitors. 3. Identifies safety problems encountered during the course of work that if corrected may result in the prevention of accident/injury to patients, employees and visitors and reports problems to appropriate supervisor or the Patient Safety Hotline. 4. Adheres to System, Hospital, and Department-specific safety programs. • Medical / health care error reporting. • Aware of sentinel events definition and reporting procedure. • Completes annual patient safety fair training	3
Adheres to all Mercy Health System Policies and Procedures.	3
Registration/Data Collection • Works with internal and external customers to efficiently and accurately enter patients into the hospital system, in accordance with departmental policies and procedures. • Greets patients and pre-registers/registers patients promptly, professionally, and efficiently, in accordance with departmental policies and procedures. • Follows the National Patient Safety Goals in regard to patient identification. • Requests photo identification and copies of insurance card(s). Indicates in system when photo identification or insurance card(s) are unavailable. • Follows red-flag identity protocols and report as required. • Avoids use of medical jargon when speaking to patients and families. • Collects and verifies all comprehensive personal, financial and medical information in an effective and courteous manner for the registration process. • Reviews and updates the patient's account to ensure it has accurate and current information to process claims and obtain payment. • Communicates to the patient the patient's financial responsibilities. Requests co-pay or deductible when applicable and provides receipt to patient. • Explains forms and secures all patient signatures for required documents. • Asks and answers question regarding Advance Directives. • Ensures that all paperwork is sent to the appropriate departments. • Provides assistance to patient/family in getting to clinical area. • Answers phone utilizing proper Departmental Scripting. • Speaks to patients/family members using age/culturally appropriate techniques.	3

• Recognizes potential changes related to aging and/or stress, i.e. diminished vision/hearing, decreased stamina, confusion, and intervenes appropriately. • Notifies supervisor if children are alone in waiting areas. • Contacts physicians or ancillary departments to resolve questions. • Runs sanction checks on all ordering physicians not currently in doctor master, if necessary • Performs all other duties related to patient registration as required to ensure a positive patient experience in accordance with departmental policies and procedures.	
Insurance • Verifies and obtains insurance benefits and required referrals and pre-certifications for patients that have not been pre-registered before the patient is treated, immediately after the patient arrives, or, if necessary, within one business day of the patient's treatment • Follows departmental policies and procedures for completing the patient's record, including copying insurance cards (or indicating in system when insurance card is unavailable), entering authorization/pre-certification/referral numbers, and other information as necessary • Verifies insurance coverage through automated eligibility system. Uses insurance verification systems to verify eligibility and upfront collection amounts. • Communicates and explains insurance benefits and coverage information to patients. • Reviews patient accounts for financial status to identify non-funded patients and ensure referral to and appointment with a Financial Counselor. Notifies the Financial Counselor of all referrals. • Collects monies for self-payment rates and documents system appropriately. • Utilizes appropriate systems including Patient Accounting to research the patient's account history. • Contacts the patient's insurance carrier to obtain benefits within 24 hours of the service date and determine if pre-certification or referral from Primary Care Physician is required. • Refers inpatient accounts to Care Coordination for clinical justification for pre certification as necessary. • Completion of IMM paperwork per CMS guidelines • Maintains contact with physician practice offices to process insurance eligibility and pre-certifications	2.5
Outpatient Registration • Monitors insurance coverage to ensure patients are capitated to hospital. • Ensures the patient has the required forms for Ancillary Services being rendered. • If needed, directs patients to proper area for test. • Ensures that patient has a signed and completed script for all services, with an ICD code. • Performs medical necessity checks and follows up as necessary • Verifies that a secured authorization and referral are on file if necessary	N/A
Customer Service and Problem Solving • Meets the needs of the patient, physician, physician office, and internal colleagues by maintaining good public relation skills: o Utilizes the AIDET model during every patient encounter (Acknowledge, Introduce, Duration, Explanation, Thank You) o Strives to please the patient, physician, physician office, and internal colleagues at all times. o Always greets the customer with a smile and addresses customer by name in a courteous, respectful and professional manner. o Attempts to understand customer questions and concerns. If unsure of answer, seeks information from appropriate person in order to assist customer. • Files all documents as needed. • Identifies and solves client problems. • Receives problem/question calls from clients, determines action needed, and monitors the problem to complete resolution. • Addresses critical problems, otherwise communicates unresolved problems to the appropriate individuals as soon as possible.	3.5
3.Greeter Duties ER Greeter/ER Registration: • Properly and accurately registers patients utilizing legal name and date of birth and immediately issues patient identification bracelet at the end of the registration process. • Completes quick reg process as required. • Properly selects patients from the pre-registration status to complete the full registration. • Registers patients using correct location. Admitting: • Processes admissions in a timely and accurate manner to include service location. • Maintains ongoing relationship with Care Coordination as required by departmental processes	N/A

• Continues to update and document in the registration record as information is received • Completes status change in a timely and accurate manner and follows admissions process as required Outpatient Greeter Duties: • Answers the phone utilizing Departmental Scripting. • Greets patient and logs patients into electronic tracking system. • Directs patients to the appropriate testing area. • Directs patient to registrar's office for registration. • Ensures that the Outpatient Greeters desk is manned during defined hours of service. • Ensures that the Outpatient Greeters desk is clean and neat and contains no protected health information that is accessible or visible to others.	
SAdditional Lead Patient Access Representative Duties • Oversees department and promotes efficient department function. • Acts as a resource and positive role model for Patient Access colleagues. Provides feedback to colleagues regarding Access issues. • Assists with insurance updates and problems, including reports and specific accounts identified by the billing office. • Keeps management apprised of any issues or obstacles that would impact patient satisfaction. • Presents information to appropriate parties/committees and provide reports, as needed. • Assists with daily operations of the area, including ensuring adequate staffing levels, patient flow and delays. • Ensures that the information required for quality improvement reports is provided to management at the specified time. • Orients new colleagues to department specific issues. Trains existing staff, monitors performance and accuracy. • Schedules staff and assists with coverage when needed, ensuring adequate staffing levels. Leads are cross trained and required to be able to work in any area of Patient Access. • Supports VIP initiative. • Identifies ways to improve work processes and improve patient, physician, physician staff, and internal colleague satisfaction. • Attends meetings, as requested by direct supervisor and may need to represent, provide, and receive information for the department. • As directed by management, identify and document performance issues. • As directed by management, prepares staffing schedule for Management approval. • Provides coverage when staffing is not available due to vacations, illnesses, break periods, etc. • Assists with the development of departmental training curriculums and training manuals. • Coordinates the implementation of orientation and training programs for new colleagues. • Participates in a competency review of colleagues as assigned. • Meets with the staff on a regular basis to discuss issues/concerns and communicate information back to management. • Conducts in-service training sessions as needed for new operational procedures. • Monitors supply inventory and reports inventory/shortfalls. • Other duties as assigned	N/A

Performance Score A (1-5):
Select: 3.5

Performance Evaluation Comments
Bash has not been working with us a full year, yet she has the qulities of a leader. She always offer ideas to slove problems within the department.

I would like for increase her copay collection, document notes is bar and answering the MSP questionnaire completely.

Mercy Health System
A member of Catholic Health East

Colleague
Position Description/Evaluation Tool and Development Plan Document

Scale:	1=Well below standards, doesn't meet	3.5
	1.5	4=Exceeds standards
	2=Below standards, needs improvement	4.5
	2.5	5=Far Exceeds Standards/
	3=Meets standards	Significant Contributor

Standards of Behavior

First Impressions

Always say "hello" with a smile to patients, visitors and co-workers in hallways and elevators; 5/10 rule – If 10 feet away make eye contact. If 5 feet away say hello.

Display an attitude and spirit of service that shows "patients are our number one priority." Remember they are the reason we are here.

Make a point of introducing yourself -- use patient and colleague names in conversation. Be genuine. Always look for opportunities to make contact with patients, families and colleagues. Use eye contact and body language that display reverence for every person.

Acknowledge those who are in the waiting room; especially if there is a delay in providing services; stay in contact to assure them.

Stop what you are doing to help a patient, visitor and colleague. Offer to escort patients and visitors to their destinations if they appear to need help.

Listen attentively to the needs of others and offer assistance when possible.

Maintain a positive attitude and always speak positively about the Operating Unit or Health System -- never complain in public settings.

Rating:

3=Meets standards

Effective Communication

Respond in a timely manner to all requests – be sure to "follow-through" on requests and promises. Convey clear, concise, and accurate information and confirm understanding. Avoid using technical or professional jargon and acronyms.

Answer the phone by the third ring. State name, department and give appropriate greeting. Always smile and use a friendly tone. Avoid putting callers on hold for extended periods of time.

Respond to emails and phone calls by the end of the next business day, unless an out of office message is provided. Use out of office messaging on voice mail and email when out for a day or more.

Use "Key Words at Key Times" in communications; for example, whenever you end an encounter ask, "Is there anything else I can do for you?

Communicate expected timelines for providing requested information.

Respect colleagues by avoiding gossip and unprofessional talk.

Rating:

3=Meets standards

Service Excellence

Strive to provide excellent service at all times.

Anticipate and correct problems before they become complaints.

Apologize for delays or inconveniences when they occur and do so with sincerity and without placing blame.

Take responsibility for addressing problems or complaints. Thank the person for bringing the complaint or problem to your attention. If unable to resolve a problem or complaint personally, report it to the appropriate personnel.

Look at problems as opportunities; stay solution-focused

Rating:

3=Meets standards

Recognition and Appreciation

Commend a colleague when he or she demonstrates one or more of our standards and behaviors.

Openly praise and acknowledge the good work of colleagues by announcing specific professional and personal accomplishments at colleague meetings.

Reward...Reward...Reward...Catch people doing something special and let them know that you appreciate it.

Rating: 3.5

Standards of Behavior - continued

Culture of Inclusion

Treat all patients, visitors, physicians and colleagues with respect as unique, valued individuals. Provide the highest level of service that recognizes and appreciates differences in culture, race, religion, age, gender, job title and all other aspects of life.

Show special concern for persons who are poor and vulnerable.

Behave in a professional, collaborative, supportive manner.

Rating:

3=Meets standards

Spirit at Work

Start each meeting of colleagues with a reflection or prayer.

Join a volunteer activity in the community sponsored by your Operating Unit.

Send a message of encouragement to a colleague in need.

Maintain a quiet, healing atmosphere in all patient care areas.

When appropriate, pause when prayer is read over the loud speaker.

Let patients know that they are prayed for each day at the facility.

Know, share and actively embrace the mission and vision and demonstrate behaviors that are consistent with the core values of Mercy Health System.

Rating:

3.5

Professional Image

Wear your ID badge with name visible to patients and families.

Stay well-groomed by keeping clothing neat, clean and in accordance with departmental policy.

Maintain an attitude of confidence and proficiency.

Keep your work area clean and well organized.

Keep your voice down and noise to a minimum.

Be considerate of others when using an elevator. Pause before entering an elevator to allow others to exit.

Rating:

3.5

Teamwork

Value all team members and their opinions by treating everyone equally and with respect.

Fully share information that people need to do their job. Express ideas, opinions and reactions constructively.

Align personal goals with team and organization goals.

Seek to resolve conflicts in a respectful and positive way; directly communicate with the individuals involved promptly to achieve a healthy resolution.

Rating:

3.5

Standards of Behavior – continued

Privacy and Confidentiality

Maintain strict confidentiality at all times with patient, visitor, colleague, and physician information and with proprietary organization information. Demonstrate awareness and adherence to HIPAA requirements.

Always knock and announce yourself before entering, regardless if there is a door or not.

Respect the privacy of colleagues, visitors and patients. When necessary and appropriate, close curtains in patient's rooms to afford them privacy. Keep your voice down when talking so others do not hear private and confidential information.

Avoid discussing confidential information in public areas such as elevators and hallways.

Protect all written and electronic patient information from view.

Shred patient-related documents to protect our patients.

Rating: 3.5

Accountability

Encourage and contribute innovative ideas and ways of doing things that increase efficiencies.

Seek out information and share what you have learned.

Be aware of and comply with policies and procedures of the organization.

Recommend changes to policies, procedures and environment to enhance everyone's ability to provide optimum service to all patients, visitors and colleagues.

Learn about services other than your own, where they are and how to access them.

Demonstrate a cost conscious attitude in the daily operation of the organization.

Assume ownership of cleanliness and neatness of work area and throughout the organization.

Actively promote and ensure a safe work environment, reporting concerns promptly.

Rating:

3=Meets standards

Considering your rating for each of the 10 Standards of Behavior, determine your overall assessment of the colleague's behavior:

Performance Score B (1-5): Select: 3.5
Performance Evaluation Comments Text here

Mercy Health System
A member of Catholic Health East

Colleague
Colleague Position Description/Evaluation Tool and Development Plan Document

Scale:	1=Well below standards, doesn't meet 1.5	3.5
	2=Below standards, needs improvement 2.5	4=Exceeds standards 4.5
	3=Meets standards	5=Far Exceeds Standards/ Significant Contributor

Core Values

Please identify at what level the Colleague currently demonstrates the core value.

Core Values & Behavioral Anchors

#1 – Reverence for Each Person:
We believe that each person is a manifestation of the sacredness of human life.
Shows sincere interest in each person
Expresses appreciation
Apologizes for misunderstanding, inconveniences or mistakes
Listens with empathy to understand others thoughts, feelings and concerns
Treats all persons with respect and compassion

Performance 3=Meets standards
Measure

#2 – Community:
We demonstrate our connectedness to each other through inclusive and compassionate relationships.
Spends the extra effort to put people at ease
Can motivate individuals and teams
Empowers; brings out the best in people
Helps others realize the importance of their work in contributing to the mission

Performance 3=Meets standards
Measure

#3 – Justice:
We advocate for a society in which all can realize their full potential and achieve the common good.
Treats others justly and respectfully
Deals fairy with everyone
Acts to ensure that diversity is encouraged at all levels

Performance 3.5
Measure

#4 – Commitment To Those Who Are Poor:
We give priority to those society ignores.
Directs resources to assure that persons who are poor have access to quality service
Recognizes and appreciates the need and circumstances of persons who are poor
Responds with empathy to those who are less fortunate

Performance 3=Meets standards
Measure

#5 – Stewardship:
We care for and strengthen the ministry and all resources entrusted to us.
Understands and supports the mission
Supports work/life balance for self and others
Stewards the financial assets and human resources wisely

Performance 3.5
Measure

#6 – Courage:
We dare to take the risks our faith demands of us.
Speaks out on unpopular issues
Advocates for the disenfranchised
Stands up for what is believed to be the right
Responds to problems quickly and directly
Maintains a sense of humor

Performance3.5
Measure

#7 – Integrity:
We keep our word and are faithful to who we say we are.
Is widely trusted
Keeps confidences
Is seen as a direct, truthful individual
Accepts blame for his/her own mistakes rather than blaming other
Gives credit to those that developed ideas or plans

Performance 3.5
Measure

Considering your rating for each of the 7 core values, determine your overall assessment of the colleague's behavior with CHE core values:

Performance Score C
3.5

Identify actions that are noteworthy (Positive or Opportunities)

Performance Evaluation Comments
Text here

Mercy Health System
A member of Catholic Health East

Colleague
Performance Evaluation & Learning Plan

Summary Of Performance

Overall comments:
Text here

	Score Location	Score	Weight	Total
Job Specific	Score A	3.50	0.5	1.75
Standards of Behavior	Score B	3.50	0.3	1.05
Core Values	Score C	3.50	0.2	0.70
	Final Score			**3.50**

Please round final score to the nearest half point.

Scale:
1=Well below standards, doesn't meet
1.5
2=Below standards, needs improvement
2.5
3=Meets standards
3.5
4=Exceeds standards
4.5
5=Far Exceeds Standards/ Significant Contributor

Note: A final rating between 1 and 2 requires an action plan

Development Plan

Please identify the colleague's one greatest strength and how they can continue to develop that strength

Goal:
xt here

Action Item:
Text here

Deadline:
1/1/2012

Resources:
Text here

Check Point Date:
1/1/2012

Please identify the colleague's one greatest challenge and how he/she can continue to develop in that area

Goal:
Text here

Action Item:
Text here

Deadline:
1/1/2012

Resources:
Text here

Check Point Date:
1/1/2012

Colleague's Comments:
Text here

Performance and Evaluation Type: ☑ Annual ☐ Introductory ☐ Other

I have read this performance appraisal. I understand that my signature is not necessarily an indication that I agree with the appraisal, but an indication that I have been given the opportunity to review its content.

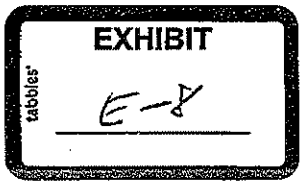
Colleague Signature — Date 10/31/16

Manager Signature — Date 10/31/16

Reviewer Signature — Date 10/31/16

EXHIBIT D

NAME	JOB TITLE	PAY GRADE	PAY RATE
SINGLETARY, WANDA	CLERK GENERAL	F02	$16.02
CALIMAN-ALLEN, DANYEL	DISCHARGE PLANNING ASST	F05	$20.62
POWELL, MITSUKO	DISCHARGE PLANNING ASST	F05	$18.65
JOHNSON, PAMELA	EEG TECHNICIAN	F09	$24.12
CLAHAR, MAXINE	EKG TECHNICIAN	F05	$19.41
COLEMAN, JASMINE	EKG TECHNICIAN	F05	$16.07
KING, LAVATRICE	EKG TECHNICIAN	F05	$19.10
MCCORMICK, MARY JANE	EKG TECHNICIAN	F05	$19.90
BETHEA, LINDA M.	ENDOSCOPY TECHNICIAN	F05	$19.48
RAY, PORSCHE	ENDOSCOPY TECHNICIAN	F05	$18.04
HINES, MICHELLE	FOOD SERVICE ASSOCIATE	F03	$12.96
LUONG, TRACY	HEALTH INFO LIAISON	F05	$17.51
ALSTON, ANDREA	HEALTH INFO MGMT CLERK	F03	$17.39
AYTCH, ANN	HEALTH INFO MGMT CLERK	F03	$17.39
ROBINSON, TERRI	HEALTH INFO MGMT CLERK	F03	$17.48
RICHARDSON, DENNIS	NUTRITION AIDE	F03	$19.70
SPIVEY, MAXINE M.	NUTRITION AIDE	F03	$19.71
COLON, DENISE	OCCUP HEALTH ASST	F05	$18.13
CONWELL, CHAKANA	OCCUP HEALTH ASST	F05	$17.85
DRUMMOND, LENORA	OR TECHNICIAN	F07	$25.75
DUBOSE, TEE	OR TECHNICIAN	F07	$24.72
ELLERBE, TRACY	OR TECHNICIAN	F07	$20.15
ISHAM, PAMELIA	OR TECHNICIAN	F07	$23.72
MCDONALD, CRYSTINA	OR TECHNICIAN	F07	$19.57
WELLS, THOMAS	OR TECHNICIAN	F07	$19.57
WOODLEY, SHERRI	OR TECHNICIAN	F07	$23.72
CREAMER, ELAINE	PARAMEDIC	G08	$22.82
BALDWIN, NICOLE	PAT ACCESS REG REP	F04	$15.59
BERRY, DANA	PAT ACCESS REG REP	F04	$15.60
BROWN, VENA	PAT ACCESS REG REP	F04	$17.72
CAMP, BERNADETTE	PAT ACCESS REG REP	F04	$20.27
DUNGEE, LISA	PAT ACCESS REG REP	F04	$18.30
ENGLISH, YVETTE	PAT ACCESS REG REP	F04	$19.14



NAME	JOB TITLE	PAY GRADE	PAY RATE
HARRIS, SIEDAH	PAT ACCESS REG REP	F04	$15.59
HEDGEPETH, BASHIRAH	PAT ACCESS REG REP	F04	$15.59
KING, IESHA	PAT ACCESS REG REP	F04	$15.60
MALLORY, KAFIAH	PAT ACCESS REG REP	F04	$17.51
PHILSON, KENNETH M.	PAT ACCESS REG REP	F04	$15.91
PRIOLEAU, RHONDA	PAT ACCESS REG REP	F04	$19.32
RAGLAND, ARICKA	PAT ACCESS REG REP	F04	$17.70
RAY, STEPHANIE	PAT ACCESS REG REP	F04	$17.53
REGISTRE, SHIRLEY	PAT ACCESS REG REP	F04	$15.59
ROBERTS, ERNESTINE	PAT ACCESS REG REP	F04	$18.74
ROBINSON, STARSHEMA	PAT ACCESS REG REP	F04	$17.80
SAUNDERS, DONNA	PAT ACCESS REG REP	F04	$17.40
SMITH, SHELENE K.	PAT ACCESS REG REP	F04	$17.77
STONE, SHEENA	PAT ACCESS REG REP	F04	$15.60
MOON, AMANDA	PATIENT CARE ASSISTANT	F03	$18.27
DAO, DAVID	PHARMACIST STUDENT	F04	$15.60
GUZMAN, DIANA	PHARMACIST STUDENT	F04	$15.60
KIM, HWEE JUNG	PHARMACIST STUDENT	F04	$15.60
LEE, INAE	PHARMACIST STUDENT	F04	$15.60
RHEE, KUN	PHARMACIST STUDENT	F04	$15.60
SHAH, SUNISH	PHARMACIST STUDENT	F04	$15.60
DIXON, DOROTHY G.	PHARMACIST TECHNICIAN	F05	$21.25
KARNGA, CELESTINE	PHARMACIST TECHNICIAN	F05	$17.36
MARTINEZ, MARQUELDA	PHARMACIST TECHNICIAN	F05	$16.48
SEBASTIAN, JOSEPHINE T.	PHARMACIST TECHNICIAN	F05	$21.26
THOMAS, MARYS S.	PHARMACIST TECHNICIAN	F05	$16.48
JOSEPH, SHERIN	PHYSICAL THERAPY AIDE	F02	$14.94
MARTIN, ERIN	PHYSICAL THERAPY AIDE	F02	$13.00
GORDON, DECIS	QR DATA SPECIALIST	G07	$28.14
CANTERBURY, BLASE	RAD TECH STUDENT	F03	$14.00
MYERS, JENNIFER	RAD TECH STUDENT	F03	$14.00
HARRITY, CATHERINE	RADIOLOGY AIDE	F02	$16.08
JOHNSTON, MARY	RADIOLOGY AIDE	F02	$16.08

NAME	JOB TITLE	PAY GRADE	PAY RATE
NYAME, DOROTHY	RADIOLOGY AIDE	F02	$17.75
DUVALL, MAVIS	STAFFING SPECIALIST	F06	$19.26
JORDAN, STACY A.	STAFFING SPECIALIST	F06	$21.95
BOYER, CHARMAINE	STERILE PROCESS TECH I	F04	$16.64
FARRAR JR, LOUIS	STOREROOM LEAD	F05	$19.49
TILGHMAN, EMILY	UTILIZATION MGT ASST	F05	$21.29